ARCHÆOLOGIÆ ATTICÆ LIBRI TRES.

THREE BOOKES OF THE ATTICK Antiquities.

CONTAINING

The deſcription of the Cities glory, government, diviſion of the People, and Townes within the *Athenian* Territories, their Religion, Superſtition, Sacrifices, account of their Year: as alſo a full relation of their Judicatories.

By FRANCIS ROUS Scholler of *Merton* Colledge in *Oxon.*

ARISTIDES.

Περὶ καλῶν ἀκοὰς, ὑπερχόμενοι, μεῖζον ἔχοντες ἔργον ἢ φυλαξόμενοι ἢ ὅτῳ χρησόμενοι, εὑρεῖν. When others have in the ſame Argument preoccupated mens eares, they that ſpeak afterward of the ſame ſubject, have a greater trouble to conſider what they muſt paſſe by unſaid, then what to ſay.

LONDON,
Printed for JOHN WILLIAMS, and are to be ſold at his ſhop in *Pauls* Church-yard at the ſigne of the Crowne, 1645.

UMI

TO THE

RIGHT WORSHIPFVLL

Sr NATHANIEL BRENT Knight,
Vicar Generall, and the moſt vigilant
Warden *of* Merton College
in OXFORD, Health,
&c.

IT is the cuſtome of moſt, to impoſe a patrõnage of their errours upon ſome eminent perſon. But it ſhall bee my ambition in this my Dedication to manifeſt my obſervancie. Others make their choice of potent men, thereby to ſhun the darts of envy. It ſhall be my glory to be thought worthy of invidency; whoſe ignorance is not ſo great but well

knowes that ever ſome will bite in ſecret; and ſcourge theſe errours of my youth with private reproaches. But ſuch malignant tongues I will counterpoiſe with the winde; and ſet as lightly by as they are vaine. And although I am confidently perſwaded that the covert of your wings bee ſufficiently able to ſhelter my faults; yet had I rather to expreſſe my dutie towards you in theſe naked infirmities, whoſe goodneſſe truely knowes how * to pardon the bold adventures of learning. I preſent you therefore with ATHENS, whoſe deplorable raggedneſſe my papers well reſemble, which may challenge this excuſe, that they aſſimulate themſelves to the Treatiſe in them contained: VVhich of all men, I my ſelfe am conſcious moſt unfitly to have handled. That Citie once the * nurſe of reaſon; * which flouriſht in eloquence, and brave atchievements, more then all *Greece*, could not, unleſſe in her miſerable ruines, have without her diſgrace beene ſpoken of by mee. That ATHENS whence the learned Fathers of the Church ſuckt rare Literature; *Baſil* his eloquence

*Auſis literarum ignoſcere Vegetius in Prolog.

* Cic. Epiſt. *Patercul. in fine Lib. 1.

eloquence, *Nazianzen* his ſtrength, and others their flowing Oratory. That ATHENS which who had not ſeene is by * *Lyſippus* accounted a blocke. Accept, *Honoured Sir*, theſe Reliques of that famous Vniverſitie, though by me offered, as Devotion paid to Antiquitie, by you well eſteemed of, though among moſt of theſe our daies accounted dirt; whoſe labour it is to ſeeke new faſhions, and like nought but what may bee accounted novelty. Reſembling the brute, of which *Cicero*. *Ad id ſolum quod adeſt, quodq; præſens eſt ſe accommodat, paulum admodum ſentiens præteritum, &c.* never caring for what is paſt. But you weigh well the excellencie of talking with thoſe Champians of Learning, hundreds of yeares ſince gathered to their former duſt. By whoſe penſils wee ſee drawne the lively images of deceaſed Monarchs, the forms of government, and very lives of ſtates. Out of which patternes, if you pleaſe to deeme the leaſt part of this to have beene taken, it ſhall heape to my joy that the following Tract will not ſeeme a ſpurious and de-

* Apud Dicæarchum Ἐκεῖνα τὰ θεάματα τὰς Ἀθήνας, στήλας ὄντας.

generate off-spring. Vpon presumption of which I feare not, as the Eagles doe their young, to expose my brood to the rayes of the open Sunne. Thus with continuall wishes for addition to your happinesse, I take leave. From my Study in *Merton College*, Iun. 9. 1737.

Your Worships in all humility

to be commanded

F. ROUS.

To the Reader.

IT is not the thirſt of empty glory that makes me runne hazard of your cenſure, but a conſideration of the weakneſſe of Schoolemaſters, who undertake to read the Greeke Orators to raw Schollers, themſelves being not ripe in the Attick *cuſtomes. I have therefore ſo farre endeavoured as you ſee. If any thing may afford a ſcruple to any, he ſhall engage me that will require ſatisfaction. If any thing ſeem amiſſe, it ſhall be taken by me as a favour to heare of it from any. For I am not of thoſe whoſe ears are ſtept, when their errors are told them. If this pleaſe it ſhall adde ſpurres to the finiſhing of this courſe intended; and as occaſion may give leave, you ſhall have the reſt that may be ſpoken.*

UMI

ARCHAEOLOGIAE ATTICÆ

Lib. I. Cap. I.

Javan, Jas, Jaones, Jonia, Ἀελική. Ἀκτάια. Ἀελή. *Athenæ in aëra, Cecropiæ, Cranaæ, Atthis, Attica, Athenæ ſub Cecrope. Certamen Palladis & Neptuni, Plutarchi ea de re ſententia, alii ſub Erectheo volunt nominari, Juſtinus ſub Amphictyone. Salenos. Selines. Satinæ. Sethina.*

BY the the ſonnes of *Noah* [a] were the Iſes of the Gentiles divided in their lands, every one after his tongue; when by their audacious folly they would have mounted up to heaven, thinking to leave a name to poſterity, by building Caſtles in the ayre. From which attempt proceeded that which before they were jealous of, namely, aſcattering abroad upon the face of the earth; he having ſo ſpoken it, whoſe breath alone affords a faire wind: hoyſt then they muſt their Sailes, and bidding adieu to the plain in the land of *Shenar*, ſeeke out ſome new habitation. Travellers they were of yore, and yet ſtill muſt journey. Each one in as different a courſe, as of a divers language. The ſonnes of *Shem* their way, the ſonnes of *Japhet*, theirs. *Gomer* and *Magog*, and *Adadai* and *Javan*, with whom I purpoſe one furlong

[a] Gen. 10. 5.

to keepe company, leaving the reſt on one ſide or other, or behinde, looking only to my propoſed ſcope. [a] Ἀπὸ Ἰαυὰν Ἰωνία καὶ πάντες Ἕλληνες γεγόνασι. From *Javan* came *Jonia and all the Greekes.* And in Scripture we have *Javan* put for *Greece*; in *Daniel* twice, [b] *And when I am gone forth, loe the Prince of Grecia ſhall come.* And again, [c] *He ſhall ſtirre up all againſt the Realme of Grecia.* Where although the old tranſlation renders it not *Javan*, yet it is ſo found in the originall. He then comming into the Country called afterwards *Attica*, left unto it his owne name, whence it was tearmed *Jonia* and *Jas.* [d] Ἡ δὲ Ἀττικὴ τὸ παλαιὸν Ἰωνία καὶ Ἰὰς ἐκαλεῖτο. *For Attica was anciently called Jonia and Jas.* In which words we ſtill retaine ſome reliques of the radix, notwithſtanding the ſmall difference of the termination. But if we pleaſe to view after what title the *ſonnes of Javan* were ſtiled *Iaones* wee ſhall come neerer home. *Strabo* in the above quoted place, Ὁ ποιητὴς ὅταν φῇ Βοιωτοὺς καὶ Ἰάονας τοὺς Ἀθηναίους λέγει. *Homer* when he ſaies, *There the Bœotians and Iaones* ſpeaks of the *Athenians.* The *Scholiaſt* of *Æſchylus* on theſe words,

[e] Ἰαόνων γλῶν ὅι χθὼν πέρσαι θέλων

Ἰσέον δὲ ὅτι Ἰάονες οἱ Ἀθηναῖοι λέγονται ἀπὸ τινος Ἰάονος βασιλέως αὐτῶν. *It is to be underſtood*, quoth he, *that the Athenians are tearmed Iaones, from one Iaon* (he means *Javan*) *that was their King.* Neither is it ſtrange that the *van* or υ φωνὴν is left out; for though it be not written, yet perſwaded I am that it was as much pronounced, as other *au* Diphthongs were. For the antique Latines and the Greeks ſpake it as broad *a*, as if it had been *theſanros* not *theſauros*. Sr *Walter Raleigh* is of opinion *that Aſia the leſſe had people before Greece had any, and that Iavan did not fly from Babylonia into Greece, but tooke Aſia the leſſe in his paſſage, and from thence paſt over the neareſt way, leaving his owne name to ſome maritimate Province on that ſide as he did to that part ſo called.* In which, although the authority of ſo worthy and judicious a man might move much, yet it ſhall be ſufficient for me, only to goe ſo far, as antiquity will

a Joſeph. Antiq. l. 1. c. 7. p. 13.
b Dan. 10. 20.
c Cap. 11. 2.
d Strabo l. 9. p. 396.
e In Perſis p. 133.
f Donat. in Ter. p. 130.

will beare me out. [a] *Thucydides* reports that it is manifeſt, that all Greece was not βέβαιος οἰκεῖσθαι, firmly inhabited, but that there were continuall pilgrimages, or removings of the inhabitants, forſaking their former places, being driven out by a ſtronger and greater number. Wherefore when there was no ſafe traffique or commerce by ſea or land, each manured his grounds for to have provent, alone to ſerve for preſent neceſſity, deſiring no more then from hand to mouth; it being uncertain, how ſoone they might be compelled to get them thence. Whereupon they did more willingly change their ſeats, not taking grievous that ſharp charge, *Veteres migrate coloni*: *Be gone you ancient Boores.* But the more fertill ſoyle had hard bickrings. *Theſſalie*, *Bœotia*, and a great part of *Peloponneſus*, except *Arcadia*, was often invaded, and the old Lords expelled. Τὴν γὰρ Ἀττικὴν διὰ τὸ λεπτόγειον ἀπὸ τοῦ ἀνεπιστάτους μεταστάσεις τῶν ἀεὶ ἐνοικούντων οὐκ ἐγένοντο. *But Attica, by reaſon of the thinneſſe or barrenneſſe of the ground, was alwaies inhabited by the ſame men* (none it ſeems being willing to leave his better, for a worſe) *not affording ſtuff to contention.* Out of which peace ſprang up ſo great a multitude, that *Attica*, even now ſwarming, and χ τὸ αὐτόχθον, *not able to contain and feed ſo many*, is conſtrained to ſend forth *Colonies* into *Ionia*, a region of *Aſia* the leſſe; which is reported by the *Greeks* to borrow denomination from *Ion* the ſon of *Xuthus*, or, as the Poets ſay, of *Apollo* and *Creuſa*, who in the words of *Euripides* is thought to be [b] Κτίσωρ Ἀσίας & χθονός, *the maker or founder of Aſia.* The mother *Ionia* (for ſo I pleaſe to ſay) kept not ſtill her former name, for in proceſſe of time ſhee owned *Attica*, from *Actæon*, as [d] *Strabo* ſayes, or from *Atthis*, according to [e] *Pauſanias*, who was the firſt King thereof, by *Text. 21. Lycophron* called *Actius*. But [g] *Dion Chryſoſtom* brings a more naturall reaſon then this, why it was *Actæa*, *Actæ* ſignifies a *ſhore*, both in the *Greeke* and [h] *Latine* ſpeech. Now becauſe all of it within a little was waſhed with the ſea, and [i] ἀκτὴ ἐστι, it might challenge unto it ſelf *Actæa*. *Dion*

[a] Lib. 1. p. 2. Thucid.

[b] In Ione. T. 2. p. 619.

[d] Lib. 9. p. 397

[e] In Att. p. 2.

[f] Pag. 23.

[g] Orat. 6.

[h] Virg. Æn. 5 p. 214.

[i] Strabo. l. 9. p. 391.

περιεχόμενα τε ὑλίγης πᾶσιν αὐτῆς καὶ τῆ θαλάσσης ὄθεν ἢ Ἀκτὴ ἐκλήθη, ἢ ἀκτὴν πρότερον. Hence Ἀκτὴ by the *Ænigmaticall Poet* in his [a] *Cassandra* is put for this country. *Tzetzes. Because it is* (Ἀκτὴ) *a cliffe, that is cast forth and lying in the sea.* And *Athens* herselfe by *Plautus* is said *Athenæ in Acta, pro Atheniis Atticis*, as [b] *Palmerius* hath noted. But this grew old after a season, and *Cecrops* having married the daughter of *Actæus* glories in his *Cecropia* (and Athens *Cecropia*, and *Cecropis civitas*, and after that *Cranaa* from *Cranaus* the king that succeeded him.) This *Cranaus* among other of his daughters had one [c] *Atthis*, from whom also was derived *Atthis* and *Attica*, next *Posidonia* and *Minerva*, from *Neptune* and *Pallas*. In this region stood *Athens Queen of Greece*, so called, from that victory which *Minerva* got over *Neptune*, when *Cecrops* moved with a prodigie of a sudden shooting up of an Olive, and bubling forth of a salt spring in the *Acropolis*, consulted the Oracle of *Apollo*, who taught them that the one did signifie *Neptune*, the other *Minerva*, taking therefore the men into suffrages for *Neptune*, and the women for *Minerva*, who had most voices should carry it. The females being more the Goddesse bore away the bell. Lo here a witty Divell to bring in ὁμοφύλους θεοὺς, Gods of his owne making, to infold the superstitious in an ignorant zeale. However let us leave the shadow of poeticall fictions, and take the true draught out of *Mythologie*. *Plutarch* is of opinion that the ancient kings striving to draw away their subiects from seafaring negotiations, and a desire to live by sayling, untill tillage and manuring of ground, gave occasion of the speech that *Neptune* and *Minerva* did altercate about the citie. Ἐπεῖτοι δὲ &c. *Neptune* is put for the Sea and businesses thereof, *Minerva* for Arts and ingenuous kinde of life, nay sayes *Ovid* in his Kalender, *Mille Deæ est operum*, she is Goddesse of a thousand trades. Others say that the City was consecrated to her by *Amphictyon*, & *nomen civitati Athenas dedit*. [f] *Justine*. Others in the time of *Erechtheus*, among which is *Herodotus*, will have this name given

a Pag. 22.

b In Spicilegus

c Strabo & Paus. locis præd.

d Varro apud August. l. 18. c. 9. de civit. Dei.

e In Them. p. 87. l. 23.

f Lib. 2.

given. Which Author [a] *Marcianus Heracleota* doth follow, ὑσέρησι δ χρόνοις Ερεχθέως τ πόλεως ἐγκρατὴς γενὸ τ Αθηνᾶς τὴν θεσπηρείαν λαβῶν. This was that *Erectheus*, who in a time of drougth over all the world except *Egypt*, brought corne to *Athens*, and taught the *Eleusinian mysteries*. Beholding this Citie hath been to *Egypt* for other kings; to wit, [b] *Cecrops* and *Menesthens*, for his father *Petes* was an *Ægyptian*. In the time of *Diodorus Siculus* and before him was it a received opinion that *Athens* was peopled by the *Ægyptians*, *Sais* in that tongue answering to *Athene* in *Greek*, as *Tzetzes* out of *Carax*. Nay that they should be of the inhabitants of *Sais*, they argue from this. Because that the *Saita* and *Athenians* have divers customes alike. Witnesse *Diodorus Siculus*. But it pleases not me. I conjecture that first it was called *Athens*, when the people began more seriously to addict themselves to civill government, and study of good literature; knowledge and art being ascribed to *Minerva*. Τῆ δ Αθηνᾷ τ ὄνομα θεμιτὸν κ πᾶν ἴσχειν. saies [c] *Aristotle*. Nay her name being derived from thence, Nathena in the *Chaldy* tongue signifying to *study* or *learn*: from which come *thenaa* and with aparticle *Hasthenaa*, as [d] *Heinsius* the most learned. As for the conceit of *Geropius Becan*, from ana the number of three which notes eternity, and so from bat-bat-ana, *Athena*. Because wisdome doth containe eternity, let us send it back into *Germany*. Loe now *Athens* named from learning, which was once the [e] *shop of letters* and the Muses, whereof it is now deplorably destitute, having lost the glory of former *Athens*, nay the name it selfe. For if we beleeve some they tell us, that now it is *Salenos* or *Selines*. To whom I accord not. Because that I have read *Selines* for *Megara* called *Nisæa*, which is not many miles from *Athens*. Furthermore in discourse with a native of *Peloponnesus*, who lived many years in that City, I had no other appellation from him then *Atene*, which others write *Satina* corrupted as *Portus* and *Meursius* truly thinke for τὴς Αθήνας. Nay [f] *Hugo Favolius* who was there himselfe

a ἐν Περιηγήσει.

b Aristoph. sch. pag. 79. Tzetz. in Licoph. p. 23.

c Polit. l. 8. c. 9.

d In Aristar. Sac Synt. 1. c. 1 p. 27.

e Isidor.

f In Hodæp. Byz. l. 3.

himselfe even to the same purpose names it *Sethina*.

Undiq; sic miseræ nobis spectantur Athenæ
Dædala quas Pallas esse coluisse negaret,
Quas, Neptune pater, nunquam tua mœnia dicas
Indigenæ Sethina vocant—

We wretched *Athens* round do view, which now,
Though once ingenious Pallas love, 's her shame,
And t'have beene thine, *Neptune*, would'st disavow,
To which the Homebred give *Sethina* name.

CAP. II.

Athenarum situs. Ἀστυ. πόλις. Ἀκρόπολις. *Herba lucentes, Muros, Pelasgicus & Cimonius,* Propylæa. *Circuitus veteris urbis, &* νέαι & κάτω πόλεις. *Piræei brachia. Murus Phalericus. Portæ. Mer. Lanes passim apud scriptores. Cephissus Flavius.*

Greece, saies *Aristides*, is placed in the midst of the whole Earth, and in the midst of it stands *Attica*, the navell whereof is *Athens*, by which all *Greece*, cloistered in the wombe of time, received nourishment, before an happy birth had brought her forth into the light. She is seated upon a very high rocke, which habitations doe encompasse, as *Strabo*: on the top of which stands that renowned fabrick even to this day, which *Cecrops* from himselfe names *Cecropia*; of old ἀστυ *The City*, by a kinde of excellence, in a bravado of their antiquity, concerning which they were in perpetuall contention with the *Argivi*. Witnes *Pausanias*. *Terent*, *An in astu venit?* Donat. *Sic Athenienses urbem suam vocabant, unde ipsi incolæ ἀστοὶ vocantur.* So, saith he, the *Athenians* called their City, whence the Citizens themselves are called *astoi*, after that they called it πόλις *Pausanias*. Which in his time was called Ἀκρόπολις or the high City, although it be often interpreted *Arce* a Castle, which

a In Panath. p. 171. 172.

b Lib. 9. p. 396

* Plin. Nat. hist. l. 7. c. 56.

c In Att. p. 13. l. 16.

d Eunuch. act. 5. sc. 6.

e Attic. p. 24. l. 43.

which ever were ſacred to *Minerva*, as [a] *Ariſtides*. Who therefore is by *Catullus* in his *Argonauticks* named *Divare-tiuens in ſummis urbibus arces. The Goddeſſe that keepes the Turrets of Cities.* This only now remaines, the ſuccour and ſhelter of the barbarous *Athenians*, being ſtrongly furniſhed with men and armes, in which alone dwell Ianizaries, to the number of ſeven hundred thouſand, as *Chriſtophoro Angelo* told me, and avouched it, I fearing leſt he had miſtaken the number. As for the forces thereof [b] *Hugo Favolius* ſhall thus inſtruct you.

[a] Orat. in Minerv. To. 1. p. 21.

[b] Hodœp. Byz. l. 3.

Arx tantum celebris hoc tempore montis eodem
Quæ, impôſta juge eſt, vaſtæ proſpectat in undas
Æquoris, & circum diſperſa mapalia, & omnes
Externo indigenas nocuo tutatur ab hoſte,
Nobilis arx, toto qua non eſt altera Graio
Nota magis regno, validiſq; inſtructior armis,
Ignivomoq; magis tormentorum impete tuta.

A Caſtle only famous at this day,
Set on an hill, below which viewes the ſea.
The ſcattered thatcht ſheds, that ſtand it about,
The fort defends, and keeps invaſion out,
And natives ſafe. A fort; none noted more
In Greece, which hath a better warlike ſtore,
Or it for fiery Canons goes before.

Upon the toppe of this Turret ſtand the faſhions of Halfe-Moones moſt rarely gilded, after the manner of the *Iſhmaelites*, who have the Moone in no ſmall honour, as my much honoured Mr. *Selden* hath obſerved. Of which Lunulets thus ſpeaks *Favolius*,

[c] De Diis Syris Syn. 2. cap. 2. p. 288.

Cujus inaurati longe rutilantia Lunis
Arduacœlivagas feriunt faſtigia nubes.

Whoſe tops with gilded Moons aſpiring high,
Doe knock the Clouds the pilgrims of the skie.

Neither may it paſſe obſcurely which I have taken up being let fall from the mouth of an eye witneſſe; namely that on the

ſide

side of this hill, on which the *Acropolis* is built, growes a certaine kinde of herbe, that farre off, in the night season, gives a most shining and glittering light, to which when a man shall approach, he shall discerne nothing but the herbe it self. Of which matter I seriously wish that I could testifie the truth. It was delivered to me, *bona fide*, with good credit. The walls that environ this, are none now, saies *Favolius*, but in former time it hath beene well fenced, some part thereof erected by those two *Tuscan* brothers, who leaving their country, lived here under the *Acropolis*, called πελαργοὶ, *Pelargi*, Storkes, διὰ τὸ πλανᾶσθαι, for their wandring. [a] *Strabo*, [b] *Plinie* sayes their names were *Eurysalus* and *Hyperbius*. The two that first built houses of bricke at *Athens*, when formerly they had caves for dwelling places. But by the authority of *Pausanias*, though the Printers and Scribes have done both that Author, and the persons wrong, in putting a false name upon one of them, I will doe them none. Read then *Laterarias domus constituerunt primi Agrolas & Hyperbius fratres Athenis*, &c. [c] *Pausanias*. φασὶ γὰρ Ἀγρόλαν καὶ Ὑπέρβιον. From these was that part which they edified called *Pelargicum*. *Aristophanes in Avibus*.

Τίς δ' ἂν καθίζοι τῆς πόλεως τὸ Πελαργικὸν;

The other part of the *Acropolis* which was left naked, *Cimon* the sonne of *Miltiades* clothed. *Pausanias* in the fore quoted place. These walls admitted no gate but one, so rarely beautified with that costly *Propylæum* or porch, on which *Pericles* is discommended by [d] *Demetrius Phalareus* for disbursing so great a summe of money. [e] For which he was not smally troubled how he might give up his accounts to the people; His Nephew *Alcibiades* therefore seeing him somewhat sad, and demanding the cause, to whom when his unkle replied, that it was about giving his accounts, seek rather, quoth he, how you may not give them. By which counsell the *Athenians* were entangled with that neighbour warre against the *Lacedemonians*, in which they found not vacancy for an audit.

a Lib. 9. p. 391
b Nat. hist. l. 7. c. 56.
c In Attic. p. 26. l. 34.
d Tul. Off. l. 2.
e Val. Max. lib. 3. c. 1.

By

By the way it shall be fit to acquaint you with thus much, that it was not permitted to a dog to enter into the *Acropolis*, as [a] *Plutarch*, διὰ τὴν ἀκολασίαν καὶ δυσωδίαν it may be, for his heat in venerie and ill savour. Goats likewise sayes [b] *Varro*, came not thither, unlesse for a necessary sacrifice once, lest they should hurt the *Olive* which is said first to have sprung up there. The circuit of this *Acropolis* is said to be threescore stadia. Now a *Stadium* is about some *six hundred and twenty five feet, eight of which make a mile, it being the custome of the ancient Greekes, to measure the length or distance of grounds, or Cities, by the στάδια. The first City then is contained in seven miles and an halfe. But to this were added more houses able to make a City of themselves. And so indeed were they distinguished by ἡ ἄνω & ἡ κάτω πόλις, The upper and the lower City. [c] *Plutarch*, περὶ κάτω καὶ ἄνω θαλάσσης διορισθέντες, πλὴν ἄνω πόλιν διαφυλάξαι. Note here moreover, in the reading of your *Greeke* Authors, that when you meet with τὸ ἄνω in the description of a country, you presently must conceive the higher part, if it be τὸ κάτω, *Thucydides*. [d] Ἕτερόν τε ἀλλήλοις τε καὶ περὶ ἄλλων ὅσοι ὄντες ἐν θαλάσσῃ κάτω ᾤκουν. *And they prayed upon each other, and among the rest who were not addicted to the sea, yet lived below*, understand neare the sea, *Schol.* κάτω· ἤτοι ἐγγὺς τῆς θαλάσσης. The τὸ ἄνω then, and τὸ κάτω knit together made but one joynt corporation; both, as it were uniting *Piræum* unto themselves, tooke up, as [e] *Dion Chrysostom* writes, two hundred *stadia*, which is about five and twenty miles. Upon which place, *Morellus* produces a *Scholiast* testifying that the walls were μιλίων ιε φησὶ σταδίων ἓν, fifteene miles save one furlong. Where I wonder that the learned man had not eftsoone perceived the number to have beene corrupt, and written κε for ιε, twenty five for fifteen. For so it ought to be. Neither is it strange that it had so large bounds. For consider that from *Piræum* to *Athens* were reckoned five miles, as you may see in [f] *Plinie*, from *Athens* to *Phalerum*, and so to the other side of *Piræum* foure miles and

[a] Ἑλλην. p. 175.
[b] De re Rust.
* Five feet make a pace, and a thousand paces a mile. Isidor. Orig. lib. 15. c. 16.
[c] In Phoc p. 549. l. 47.
[d] Lib. p. 6.
[e] Orat. 6.
[f] Nat. hist. l. 2. c. 85.

and a quarter. The utmost wall of which *Thucydides* speakes in his second book consisted of five miles a quarter and half. The girdle of *Piræum* and *Munychia* had seven miles and an half more. All which being put together make up but twenty two miles one quarter and one furlong. But *Dion Chrysostom* must be here understood; and it behoves us to conceive that he spake not barely of the naked wals, for then it cannot hold; but I suppose some houses to have been without [a] περὶ δὲ τὸν κόλπον, as he saies, τὰ ἄκρα τοῦ λιμένος καὶ τὰ πλησίον τούτων ξύμπαντα. In which I appeale to more judicious heads. Neither can I silently passe by the opinion of *Iohn Meursius*, who reading [b] *Pausanias* these words. Ἀθηναίοις δὲ ἡ θάλασσα ἐγγύτατα ἀφίσταται τῆς πόλεως ὁ περὶ Φάληρον διάπλους, should presently obtrude to us, that *Pausanias* teaches, that the [c] wall called *Phalericus* is but twenty *stadia* or two mile and an halfe. When indeed he meant nothing lesse. For speaking of salt springs, which he calls θαλάσσιον πόμα, he seems to involve a reason drawne from the nearnesse of the sea. For when he writes of this brackish well, *Among the Athenians, the sea which comes up neere Phalerus is distant from the City but twenty stadia at the most*, quoth he. Where *Amasæus* hath thus strangely doted. *Athenis à Phalero absunt stadia haud amplius xx.* And that this was the meaning of the Author, proves that which followes. He might have likewise considered that περὶ with a Dative case signifies not onely *juxta* and *prope* as I have translated it; but *supra* sometimes, which will now serve better. And *Meursius* indeed blames the number; but sees not into the words. Now it is not needlesse that the two walls which joynes *Piræum* and *Athens* at so long a distance, be somewhat spoken of, seeing they are reckoned by [d] *Livie* among the *multa visenda*, Many things worthy of sight at *Athens*. These are the μακρὰ τείχη, in [e] *Propertius*, *---These braches long via.* [f] *Appian* of *Alexandria*, μακρὸς σκέλη, and [g] *Plutarch* in *Cimone*. One lying towards the North, of which [h] *Plutarch*. The other towards the South, in

a Loco citato.

b In Attic. l. 244. l. 37.

c Att. Lect. l. 3. c. 4.

d Lib. 31.

e Lib. 3. Eleg. 39 p. 192.

f In bello Mith. p. 125. l. 9.

g Pag. 355. l. 10

h In Pericle. p. 115. l. 20.

in height above forty Cubits, as [a] *Appian* testifies. These are called δι μίσου τείχους by [b] *Dion Chrysostom*, because *Athens* being at one end, and *Pireum* at the other, these were drawn forth between. And when writers speak of Νότον διὰ τοῦ τείχους, it may be conjectured that it is for distinction of that Νότον τοῦ τείχους in the *Acropolis* which *Cimon* built, [c] witnesse *Pausanias*. *Aristophanes* seems to bring authority for an opinion that *Themistocles* built these. *In* [d] *Equitibus*.

Τὸν Πειραιᾶ ἀσεβίμαζεν.

Which his [e] Scholiast affirmes. Τὸν δὲ Πειραιᾶ Θεμιστοκλῆς περιέβαλλε τῇ πόλει. *For Themistocles added Pireum to the City.* We read in [f] *Probus* that he was the only agent in walling the City, and that he so hastned the accomplishing, that they were faine to be as it were sacrilegious, and make use of materials formerly consecrated to the edifying of Temples and Monuments of the dead. But [g] *Plutarch* gain-saies this, and that he did only πρὸ πόλεως ἐξάπτειν τὰ περίχωρα, καὶ τὴν γῆν τῆς θαλάττης, conjoyne the City and *Pireum*, and put the land to take acquaintance with the sea. It seemes somewhat forward before. However, so fennie was the ground it was founded upon, that the worke soone came to great reparation, which [h] *Cimon* the sonne of *Miltiades* undertook. For with stones of an huge weight and lime he made the earth so firm that it could not give. Nay he was so liberall, that he did out of his own expences so great favours, to a people that some years after gratified him with exile. Neither did he only mend the breaches; but in after time [i] finished the whole worke, so that he may truly be said to be the founder of them. Let us now come to the Gates of the City.* [k] *Meursius* hath observed tenne, but I feare they will scarce suffice to such a vast City. Take then these. *Dipylon* or *Thriasia*, the faireſt of all, *velut in ore urbis posita*, placed as it were in the front of the City, saies, *Livie, major aliquanto patentiorq; quam cætera est*, greater somewhat and wider then the rest. Hence I suppose named *Dipylon* as if it were as big as two gates. Πυλαῖαι Pi-

a In Mith. p. 124. kust.
b Orat. 6.
c In Attic. p. 19 l. 8.
d P. 337.
e P. 338. A. col. 2.
f In Them. p. 27.
g In Them p. 89 l. 25.
h Plut. in Cim. p. 355. l. 14.
i Plut. p. 355. l. 12. unlesse τὸ ὕστερον may have respect to Conon who after the victory at Cnidus erected these wals as Paus. in Atticis. p. 2. l. 14. I would neither deceive my selfe or the Reader.
* Attic. Lect. initio.
k Dec. 4 l. 1. p. 11. A.

raica neere the Temple of *Chalcodoon*. Here were buried some of those that dyed in fight with the *Amazons* in the time of *Theseus*. [a] *Plutarch.* Ἱππάδες. *Hippades.* where the bones of *Hyperides* the famous Oratour rest with his progenitours, who being racked under *Antipater*, chose rather to bite off his tongue, then to divulge the secrets of his country. [b] Ἱερὰι. *Sacra*, the sacred gate. We read of this in [c] *Theophrastus's Characters* but to my great admiration, that the Eagle-sighted *Casaubon* had not espied a fault. For though it be true that there were such gates at *Athens* as Ἱεραὶ, yet is there any that ever read τὸν τῆς ἱερᾶς πύλας ἐξενηνόχθαι νεκρὸν, the dead to have been carried out to burial through the Sacred gate? It makes not any thing that it was spoken to a stupid fellow, for they spake not as our vulgar doe, such as, *When Christmas comes out of Wales*, write then Ἱεραὶ. Ἱεραὶ are the gates at which they went forth with their corps at the solemnizations of their obsequies, the reason of which shall be spoken hereafter. [d] *Demosthenes*, Αἰγέως πύλαι. The gate of *Ægeus*. It seems to have been in *Delphinium* where he dwelt; whence the *Hermes* or Image towards the East end of the Temple was called [e] Ἑρμῆς ἐπ' Αἰγέως πύλαις. *The statue at the gates of Ægeus.* Μελτίδης. *Melitides.* Where lyes *Thucydides* the sonne of *Olorus* that wrote the *Peloponnesian war*, who after his returne into his country from banishment, was treacherously murthered, his Sepulchre stands neare these gates [f] *Pausanias.* Κεραμικὸς. *Ceramicus.* These are called by *Xenophon* αἱ ἐν τῷ Κεραμικῷ πύλαι. *The gates in Ceramicus*, where many of the *Lacedemonians* were buried, which dyed in the seditious war that *Thrasybulus* made against the *thirty Tyrants*. [g] *Xenophon.* Διοχάρους πύλαι. The gates of *Diochares*. Of whom I have nought to speake. Ἀχαρνικαὶ πύλαι. The *Acharnan gates*. I suppose they were called so from that Towne or Village neere, named *Acharnia*, to which it is probable it looked. For so did the ancients name their Gates from the Towne to which they were neare. The *Romans* their *porta Collatina* from

[a] In Theseo, p. 9. l. 20.

[b] ἐν βίοις τῶν ῥητόρων p. 456.

[c] περὶ ἀηδίας Casaub. p. 45.

[d] Pag. 715. num. 95.

[e] Plut. Thes. p. 4. l. 21.

[f] Atticis p. 21. l. 42.

[g] Ἑλλην. lib. 2. p. 479. l. 43.

from *Collatia*,a Burge not farre off. And happily it is ſo here, as alſo in Διόμεια *Diomæa*; for *Diomus* is a people of *Athens* not any great matter diſtant from the City. Θρᾳκίαι *Thracia*. Theſe are all that ever I met with named: others there are obſcurely pointed at by [a] *Pauſanias*, as that neare the Gallery which from its various draughts they call *Pœcile*, where is the effigies of *Mercurie* Agoræus in braſſe. And others about the beginning of his *Attica*, of which I had better hold my peace then ſpeake as good as nothing. Thus have we found twelve gates; which being opened, enter; ſucke that ſweet aire, whoſe excellent purity brought forth ſuch acute wits [b] and prepared with a moſt happy bounty underſtanding judgements for contemplation. Whence [c] *Euripides* may well ſtraine to this note, that *Venus* ſitting neare, and adorning herſelfe, ſends forth continually *Cupids of learning*, παντοίας ἐρετὰς ξυνωρὶς ἵει. Well may he bleſſe that clime ſtiling it, [d] λαμπρώτατον αἰθέρα, which hath beene the Mother of the *Muſes* (by the leave of *Mnemoſyne*) or at leaſt the Nurſe to them, for there are they ſaid to have travelled with *Harmonia*; as if there were no ſuch melodious content, as in the Sciences. Let not [e] *Theophraſtus* aſſert all *Greece* to lye under the ſame temperature and diſpoſition of the heavens, when at this day it may be ſpoken, as once *Ariſtides* did of it. [f] No coaſt ſo truly void of all earthly dregs, and participating more of the celeſtiall and defecated aire. Not unworthily hath *Sophocles* beene laviſh in expreſſions. [g] *Famous*, [h] *The moſt renowned*, [i] *Happy*, [k] *Sacred* Athens. *Pindarus*. [l] *Wonderfull*. [m] *Much ſpoken of*. [n] *Neat*, &c. To the making up of her delight comes to all the river *Cephiſſus*, which is able to beare veſſels of a good burthen, as I have been informed, but the *Turkes* fearing leſt it might be advantagious to an enemy that might invade them, have cut it into many and ſundry little ſtreams damming up with an innumerable quantity of ſtones the mouth of the river for a mile in length. Thinking they have ſufficiently prevented, which they did but ſuppoſe could happen.

Meurſius hath added two. *Iotneæ*, & *Sceæ. in Atticis*, which I never ſaw untill I had written this place, as God and man is my witneſſe. I ſpeak leſt any ſhould thinke that I have ſtolne out of him, becauſe we meet

a Atticis p. 14. l. 11.

b Caſſiod. Var. l 12.

c Medea. p. 460. 461.

d Med. p. 459.

e In Præf. ad Charact.

f Tom. 1. p. 173.

g Aia. p. 57.

h Oed. Col. p. 258.

i Oed. Col. p. 264.

k Aia. p. 71.

l m. p. 361.

CAP. III.

Ἀττικοί. Ἀστυαῖοι, *Mores, & Ingenia.* τὸ μισοβάρβαρον. *Quantum hodierni differunt à veteribus; & qualem vitæ rationem modumq; habent.*

THE *Athenians* by [a] *Dicæarchus* are divided into two sorts, Ἀττικοὶ, *Attici*, and Ἀστυαῖοι. Of which though there were no difference in latter times, yet certainly of old there was. Insomuch as one of the punishments, which the *Athenians* are said to inflict upon their women (for the appeasing of *Neptune*, bringing in an inundation upon their fields to their great damage, in anger conceived for losse of the Title of the City) was this, [b] That none should after call them Ἀστυαῖας, *Athenians*, but Ἀττικὰς, *Atticas*. A revenge I suppose opprobrious enough. For thus writes my Author. Οἱ μὲν, φλύαροι καὶ λαλιαῖς, ὕστυλοι, συκοφαντώδεις, ἐφεστηκότες τὸν ξενικὸν βίον. *Curious bablers, Deceitfull, Calumniators, Observers of the lives of strangers,* Πλεονάζει παῖς λαλιαῖς. [c] A sufficient witnesse of this is [d] *S. Luke*, that saies, they did regard nothing more then to heare and speake noveltie. To which end they often met in Barbers shops, where all the news that was going in those daies, was currant. Hence say we, *verbain tonstrinis proculcata*: and in Greek ὀλὴ τοῖς κειρέοις λόγος, [e] *Aristophanes*.

Καί τοι λόγος γ' ἦν, νὴ τὸν Ἡράκλεα, πολὺς
Ἐπὶ τοῖσι κειρέοισι καθημένων
Ὡς ἐξαπίνης αὐτὸς γεγένηται πλούσιος.

They that sate in the Barbers shops did talke much that he was suddenly growne rich. The Scholiast seemes to take the meaning as if the Comædian had quipped them for resorting to Barbers, and neglecting Barber Chirurgions of better credit. But I see no reason. They met in both to prattle. [f] *Ælian* Καθεζομένους ἐν ταυτῷ, λογίους, καὶ κακῶς ἀγορεύειν ἐκ παντὸς τρό-

[a] ἐν βίῳ Ἑλλάδος. p. 169.

[b] Varro apud Aug. de Civ. Dei. l. 18. c. 9.

[c] Act. 17.

[d] In Pluto p. 38.

[e] Var. hist. lib. 3. c. 7.

διδάσκαλος. Sitting in a Chirurgions shop, scandalous, and thirstie to speake ill by all meanes. ὕπουλοι. men Italianated, who can smile, even when they cut your throat. Such as *Theophrastus* hath in his Characters drawn out, who can be affable to their enemies, and disguise their hatred in commendation, while they privily lay their snares; that salute with mortall embracements, and claspe you in those armes, which they meane to embrew in your deerest blood. In summe, faire without, but rotten within, like a wound which is healed above and seemes sound, but putrifies under the skin. And so much the word doth import. Συκοφαντώδεις. Given to false accusations. The [b] Scholiast of *Aristophanes* writes, that it being forbidden to carry figges out of *Athens*, and some nevertheless the decree being absolute against it, presuming so to doe, they set rogues in the gates that did appeach them (as [c] *Plutarch* likewise.) Hence came this word to be used for any crafty knave that gets his living by promooting, [d] ἀπὸ συκοφαντίας ζῶν. One that meddles in every mans affairs, and therefore [e] *Aristophanes* hath fitly brought one upon the scene terming himselfe an *Overseer* both of private and publike matters. If then such a person had espied any tripping, and gotten him upon the hip, he would assure have fetched him over for his coyn, as any *Summoner* doth a person delinquent towards the flesh, or any Lawyer a credulous client, & having well plumed him, afterwards give him a dimissorie. Ἐκεῖνοι (*Sycophantæ*) ὡμὸν δὲ παρ' ὧν χρήματα λαμβάνουσιν, ζωὴ εἶναι. *Xenophon*. Such were many in *Athens*, insomuch that *Aristotle* being asked what *Athens* was, answered, παγκάλη, *All beautifull*, πλὴν ὀλίγη ἐστὶ ὀλίγῃ σηρίσκοις σῦκον δ' ἔδει σύνω, in a verse of [g] *Homer* in the description of *Alcinous* his garden, but pears grew ripe after peares, and figs after figs, meaning a continuall succession of Sycophants. This made *Isocrates* the Orator to compare the City to a Curtezan, with whom few there were but would have to doe, yet none dare take to wife, affirming it to be the best place to sojourn in, but the worst to inhabit:

a Cap. περὶ εἰρωνίας.

b In Plut. p. 5.

c In Solone p. 65.

d Xenophon. Ἑλλην. ς. p. 271. l. 20.

e Pluto. p. 90. p. 91. b.

f Ἑλλην. β. p. 272. l. 19.

g Odyss. η.

By

By reason of their Sycophants and trecheries of nimble tongued Oratours. Παραπηποὶ τῆς ξενικῆς βίου. I was once halfe in an opinion that these words were to have been put to the former thus, συκοφαντώδεις παραπηποὶ τῆς ξενικῆς βίου, And I thinke the sense will runne well, *Malitious observers of the lives of strangers.* The *Athenians were* φιλόξενοι and held hospitality sacred, and I doubt not but they had that Law, *That forrainers should receive no wrong,* ἵνα μὴ ἀδικῶνται. [a] *Socrates* in *Xenophon.* Now he discommends the Ἀπλοὶ as ready to trouble and vex strangers in law, duly marking and bearing an eye unto them to take them at an advantage: As for the *Athenienses* they were μεγαλόψυχοι ἁπλοῖ τοῖς ἤθεσι, φιλίας γήσιοι φύλακες, *Brave spirited, single dealing, and faithfull friends.* But as the words were at length confounded, so did their manners degenerate, growing into ἀνωμαλίαν τῆς φύσεως, an *Irregularity of nature.* as [b] *Polybius.* No μεγαλοψυχία afterwards, but hautinesse of spirit, magnanimity now fallen. And when [c] *Livy* sayes *ex vetere fortuna nihil præter animos servare,* hee meanes, they had nothing left but those proud spirits, which their ancient flourishing fortune had puffed up. No ἁπλότης, or simplicity, [d] *no lambe like innocency,* or mildnesse; but as [e] *Plutarch* speakes, *people rashly angry, seeme pitifull, rather inclined sharply to take opinion, then quietly to be informed.* And *as they are ready to helpe base and abject peasants, so friendly doe they entertaine childish and ridiculous toyes, rejoycing in their own praises, and nothing moved with scurrility. Fearfull and terrible even to their governours, humane towards their enemies.* Not unfitly then [f] *Valerius Maximus, Quantum ergo reprehensionem merentur, &c.* How deserve they to be blamed, who though they had just laws, yet had most wicked disposition, and chose rather to take their owne courses, then put in practise their statutes? As for their impudence, so great was it, that to expresse a countenance void of shame, the Comedian hath put Ἀπλοῦν βλέπων, An *Athenian looke,* in [g] *Nubibus,* φιλίας γήσιοι φύλακες, So accounted in the time of [h] *Paterculus,*

a Απομνημ. β. p. 428.

b Lib. 6.

c Dec. 4 p. 7 l. 1

d Aristoph. p. 694.

e πολιτ. παιδ. 7. p. 387.

f Lib. 5. c. 3. p. 207.

g Pag. 1 89 g.

h Lib. 2. p. 47.

culus, that what was done in sincerity and faithfull trust, the *Romans* would say, it was performed *fide Attica* with an *Athenian* loyalty. Feare and power might make them trusty, but how they brake their leagues, took part with other *Ilanders* against confederates, and violated the laws of arms, Historians are not dumb. As for their wrath it was *ἀείμνης*, ever mindfull, as [a] *Virgil. memor ira.* And the hatred they prosecuted the *Barbarians* withall was so unquenchable, that it burned against [b] all *Barbarians* for the *Persians* sake; and they forbad them their sacrifices as they used to doe murderers among them. Where you must note that all that were not *Grecians* were called of them *Barburians*. But loe! How are they now become all barbarous! whether of no people of *Africa* or some of the *Catelani* I cannot justly tell. *Mahumetans* all, poore and miserable, living by rapine, or fishing, or tilling the earth, [c] *Favolius*

Duraq; conditi
Pauperie assuerunt vitam tolerare rapina.
Aut passim infestant furto, raptoq; propinqua
Æquora pirata, sed qua pars æquior, hamis
Fallit inescatos tereti sub arundine pisces.
Aut desolatas exercet vomere terras,
Semper inops, misera, infelix, rerum omnium egena.

Oppresst with need they doe their life sustaine
By rapine, and anoy the neighbour maine
With pillaging. Who are more just and good
With angling doe the silly fish delude;
Or plough the grounds made desolate before,
Unhappy, wretched, miserable, still poore.

a Æneid. 1.

b Isocrat. in Pan. p. 169.

c Hodœp. Byz. l. 3.

C CAP.

CAP. IV.

De populo divisione, Εὐπατρίδαι. Γεωμόροι. Δημιοῦργοι. Παντακοσιομέδιμνοι. Ἱππῆς. Ζυγῖται Θῆτες. *Quid Athenienſibus cum Ægyptiis commune.*

THere were at firſt but two kindes of people in Athens, two orders *quibus inter gradus dignitatis fortunæq; aliquid interlucebat*, in which there was difference of dignity & fortune: ſuch as at this day are in *France* either Peers or Peaſants, or as in *Fomie* Particians and Plebeians. And although *Pollux* calls them πεντάφυλον, three ſorts, yet I make but two, becauſe the γεωμόροι were not any way more gentile for blood, ſurpaſſing for riches, or happy for life. But becauſe he hath ſo ſet them, take them thus, as he ſpeakes: [b] πρῶτα μὲν οὖν ἐστὶν εὐπατρίδαι. Εὐπατρίδαι, Γεωμόροι. Δημιοῦργοι. Εὐπατρίδαι, *Eupatridæ*, were ſuch as were deſcended from the loyns of thoſe *Heroes* famous in the Greek hiſtory, whoſe families were ever renowned, and poſterity propagated to many generations; ſuch as *Praxiergidæ, Eteobutadæ, Alcmæonidæ, Cynidæ, Cerices, &c.* whom we may tearme Nobles, or men of good birth. Γεωμόροι, *Geomori*, may not ſeeme unlike our Yeomen, who had lands of their own, and ſuſtained themſelves with the fruit and commodity of their poſſeſſions. Δημιοῦργοι, *Demiurgi*, were men of ſome handi-craft, Tradeſmen, ſuch as Tentmakers, Shoemakers, Carpenters, Maſons, and the like. But *Solon* made another diviſion. For when the *Diacrii*, which were thoſe that lived in the upper part of the City, οἱ ἐξ ἄστεως, ſaies *Diogenes Laertius*; and the *Pediæi* which likewiſe are πεδιῆς, ſuch as lived in the middle of the City, or the plain. And the *Paralii* who lived neare the ſea, were at contention about government. The *Diacrii* leaning to a Democratie, as [d] *Plutarch* writes, the *Pediæi* to an Oligarchie, and the *Paralii* between both, and had choſen *Solon* to arbitrate and determine the matter.

a So doth *Dionyſius Halicarnaſſeus* divide them into εὐπατρίδας & δ'ημοτικούς. lib. 2. n. 2.

b Pollux l. 8. c. 9. p. 404.

c In Solone.

d Plut. in Solonem.

matter; he made these foure rankes. Πεντακοσιομεδίμνους, ἱππεῖς, ζευγίτας, Θῆτας, *Pentacosiomedimnos. Equites. Zeugitas. Thetas.* *Pentacosiomedimni* were those who ἐν ξηροῖς ὁμοῦ καὶ ὑγροῖς, could make five hundred measures in wet, and drie commodities alike. What *Possardus* then brings out of *Varro* concerning *modium*, hath no place here, for he supposes that *Pentacosiomedimnus* was he that had as much ground as fifty *Medimni* could suffice to sow, but here I will confute him with a wet finger, ἐν ὑσεῖς. For he seems to sow upon the waters. This is he whom the *Elzevirii* printed at *Leyden*, *anno* 1635. under the name of *Postellus* who was sometime a Professor of Tongues in *France*, and author of the Treatise *de Magistratibus Atheniensium*. *Equites* were such as were of ability to keep an horse, or had the quantity of three hundred measures in dry, & as many in wet; called likewise Ἱππάδα πλοῦτον. *Zeugitæ*, were such as could of wet and dry in all make but three hundred. Any of these three could beare office in the Commonwealth. A fourth ranke which he called [b] Θῆτας, *Thetas*, a name from servility, which had no power in the rule of the weale publique. But it had not beene amisse if I had shewn how the *Ægyptians* had divided their people into three classes as the *Athenians* did, as I have spoken above. For the first degree or *Enpatridæ* addicted to learning and study, who were had in greater honour, answer to the *Ægyptian* Priests. Nay those great houses in *Athens* had Priesthood by succession, as *Eumolpidæ*, *Ceryces*, *Cynidæ*. For out of the stock were chosen Priests, hence ἱεροφαντεύσων ἥβης in [d] *Demosthenes*. The *Geomori* who had lands assigned to them for the maintenance of the war, are not dislike them in *Egypt* who hold possessions on these tearmes, namely to provide souldiers when need shall require to fight. The *Demiurgi* resemble those Plebeians who skilfull in some art, did set out their labour to daily hire: as *Diodorus Siculus* can testifie.

[a] Plut. p. 65.

[b] Plutarch. loco prædicto.

[c] Plut. Thes. p. 8. l. 18.

[d] Pag. 742. num. 164.

CAP. V.

Tribus quatuor sub Cecrope mutata earum nomina. Augentur à Clisthene: duæ additæ. Φρατρεία. Φρατορες. Τελῖνες. Γένος. *Tribulum* Κοινωνία Φυλετικὴ δεῖπνα, φρατρικά.

IN *Athens* there were but foure Tribes under the rule of *Cecrops*. *Cecropis*, *Autochthon*, *Actæa*, *Paralia*; which had other names put to them, *Cranais*, *Atthis*, *Mesogæa*, *Diacris*. I suppose from the parts of *Attica*, it lying partly neare the sea, thence *Actæa* partly hilly, thence *Diacris*, partly Mediterrane, thence *Mesogæa*, the other name from the King that was then; whether the King would honour the Tribe so much, or the Tribe glory in the name of the King, I know not. It is probable that it was an honour to their governour, for as *Cecrops* gave the first names, *Cranaus* the second, *each assuming a title to himselfe*, *Erichthonius* called them after the name of *Jupiter*, *Pallas*, *Neptune*, *Vulcan*. Διὸς, Ἀθωνὶς, Ποσειδωνιάς. Ἡφαιστιάς. But when *Ion* came to rule they were named after his foure sonnes, *Geleontes*, *Ægicoreis*, *Argades*, *Hopletes*, as [a] *Herodotus* and [b] *Euripides*; though *Plutarch* sayes that they were so called [c] ἀπ' ἐνδυμάτων, ἃς ἀνήρτησαν οἱ βίοι τοῖς ἀνθρώποις, from the courses of life which they first tooke. But *Clisthenes* a man factious and wealthy is said by the Councel of [d] *Apollo*, *Alcmæon* being *Archon* to make tenne of them, changing the ancient titles, & taking new from some Demigods or *Heroes* borne in that land all, except *Ajax*, whom though a stranger, he put to the rest, as a neighbour and companion. [e] *Herodotus*. These then were called Ἐπώνυμοι, as you would say giving names; the word so signifies sometimes, as *Minerva* is said by *Dion Chrysostom*. Ἐπώνυμος Ἀθωνῖς, who gave the name to *Athens*. To these were erected Statues near the Councell place of the Senate. Their names are these as [f] *Pausanias* hath them, *Hippothoon*, *Antiochus*, *Ajax Telamonius*,

[a] In Terpsic. p. 137.
[b] In Ione versus finem.
[c] In Solon. p. 65.
[d] Aristides T. 1. p. 336. A. T. 1. p. 352.
[e] In Terpsic. p. 137.
[f] In Att. p. 45.

nius, Leo, Erectheus that slew *Immaradus* the sonne of *Eumolpus* in the *Eleusinian* war, *Ægeus, Oeneus, Acamas, Cecrops, Pandion.* From these Ἱπποθοωντὶς, Αντιοχὶς, Αἰαντὶς, Λεοντὶς, Οἰνηὶς, Ακαμαντὶς, Κεκροπὶς, Πανδιονὶς To which they put two more, one called after *Antigonus*, the other after *Demetrius* his name, in gratuity to them for the favours received; which in processe of time they changed into *Attalis*, and *Ptolemais*, as *Stephanus* writes, διὰ τὴν ἐπωνύμων εὐεργετηθέντες βασιλέων, having beene curteously entreated by the * Kings bearing that name. Which being so, let us take heed that *Livie* deceive us not, who at the time, when *Attalus* did succour the *Athenians* against *Philip*, saies they first thought of adding that Tribe to the tenne, in thanksgiving that the *Rhodii* rescued four fighting ships of the *Athenians* taken by the *Macedonians*, and sent them home, [a] *Tum primum mentio illata de tribu quam Attalida appellarent, ad decem veteres tribus addenda.* Thus have we seene that there were twelve Tribes in all. Let us look back to the first institution. I suppose they were first ordained for the better administration of civill government. [b] *Eustathius* writes that they were divided in imitation of the yeare, the foure Tribes according to the four quarters; each Tribe into three Fraternities, which they call τριττὺς or φρατρίας answerable to the twelve Moneths, each φρατρία or τριττὺς into thirty ἡμέρη or kindreds equalising the dayes. For so many only had the yeare of old. Witnesse the Riddle of [c] *Cleobulus* concerning the yeare,

Εἷς πατὴρ, παῖδες δ' ἐυώδεκα πᾶσι δ' ἑκάστῳ
Παῖδες τριήκοντα, διαπρύσιαι εἶδος ἔχουσαι.

One Father had twelve Sonnes, and each son thirty daughters, and every daughter black and white, meaning daies and nights. Over these were governours φυλοβασιλεῖς, Kings of the Tribes, who sate upon controversies between party and party of their owne Tribes. Each Tertian also had his overseer called, Τριτάρχης the Ruler of the *Trittys* or *Phratria*. The word may seeme to signifie a Society, fellowship, or company.

* These are reckoned among the Eponymos in Paus. p. 5. who had Statues likewise.

[a] Dec. 4. l. 1. p. 6.

[b] In Il. b pag. 181.

[c] Laertius p. 63. l. 1.

company. It skills not whether you derive it from φρεία, as *Eustath.* or παρὰ τὰ, as *Suidas*, or φρίαρ, as others, which is a Well, because they drew water from the same well. For the place being scanty of Springs where *Athens* was founded, there being but one well-spring in *Athens*, they were constrained to use φρίασι πιπτεῖν, digged wells as [a] *Plutarch.* Φρήτορες are the men of that society, called by *Tully*, *Curiales*, of the same Ward speaking of *Cimon*, who gave command that his servants should afford what they had if any *Laciades* should come into his Farme. In description of which thing *Plutarch* uses δημότης, which then we are not to interpret (*Curialis*, for this is as much as συγγενὴς, and συμφυλέτης) but *popularis*. These at festivall daies in *Athens* met in a place called *Phratrion*, as [b] *Eustathius* observes, & [c] *Pollux* (where they brought their children to be ingrossed in their books, as shall be hereafter spoken with the reasons thereof) φρατρίζειν, *Phratrizein* from hence comes which is τὸ εἰς φρατρίαν ζωΐνας, to meet, for so *Eustathius* in another place, εἰς πατρὸς ζωΐνας. As for the φρὴν or kindreds wee must not thinke that they were of one blood, but from that neare conjunction which they had each with other being admitted into this society. Ἑκάστη δὲ (every γένος or kindred consisted of thirtie, whence they were named τριακάδες) ἦν τριακοντὰς, ἐν ᾗ καὶ συνόδια ἦγον φρατριδόμβροι. Not of affinity so called, but for their Synod; which the Grammarians call σύστημα κοινωνικὸν a Communicative familiarity, κοινωνία being a participating in one thing, or having an equall share in the same priviledges. Great was their care of each other; great was their mutuall love; which that it might continue, *Solon* their Law-giver ordained certaine feasts to be provided, wherein they should kindely entertaine each other. δεῖπνα φυλετικὰ, and φρατρικὰ. [d] *Athenæus.* Τῶν δ' ἐνιαυσίων δεῖπνων προτέτακται τὸ δημοτικὸν τὰ τε φυλετικὰ δεῖπνα καὶ τὰ διιτητικὰ πρὸς τάξαι δὲ τὰ τοῦ Διὸς καὶ τὰ φρατρικὰ &c. Of feasts celebrated at this day the Law-makers have appointed *Phyletica* for Tribes, *Demotica* for the people or popular, moreover

[a] In Solone p. 65. l. 33.

[b] Iliad. β pag. 281. & Il. ι. pag. 629.

[c] Lib. 3. c. 4.

[d] Dipnosoph. l. 5. p. 185. d.

Moreover *Thiasos* for Colledges (as Philosophers for the death of their Grand Masters) and *Phratrica* for the same Ward. Hence Ἐριάζειν τῷ φυλῷ and ἐριάζειν τοῦ φράτορος. Of which in due time. The reason of this the *Diponosophist* gives, saying that wine hath ἑλκυστικόν τι περὶ φιλίαν, an attractive and perswading force to procure love and friendship.

CAP. VI.

Græcia vicatim habitata. Δῆμος *quid? Athenienſibus proprium habere* δήμους. *Quot? Templa & ſacra pagatim.*

ALL *Greece* was inhabited κατὰ κώμας, as [a] *Thucydides* ſpeakes, by Villages before there were any Townes; from whence comes the word Comœdie. [b] *At verò nondum coactis in urbem Athenienſibus, cum Apollini Nomio, id eſt, Paſtorum vicinorumq; præſidi Deo, conſtructis aris in honorem divinæ rei circum Attica vicos, villas, & compita feſtum carmen ſolenniter cantarent: orta eſt Comœdia* ἀπὸ τοῦ κωμάζειν καὶ ᾄδειν, *quod eſt, commeſſatum ire cantantes.* The *Athenians* being as yet not gathered into Corporations, when they ſung ſacred hymnes to *Apollo Nomius*, that is, the Preſident of the ſheepheards and neighbours, about the villages, houſes and croſſe waies of *Attica*, altars being built in honour of the celebrity, ſprung up a Comœdie ἀπὸ τοῦ κωμάζειν καὶ ᾄδειν from revelling and ſinging. Others will have it derived from an ancient cuſtome they had, when any were injured among them, for the party wronged to come to the ſtreet where the offender lived, and in the night time to cry aloud, [c] Ὦ δεινὰ ἀδικεῖ, καὶ τὰ τοῦ πελάτου, θεῶν ὄντων καὶ νόμων. *Such a one doth wrong, and commits ſuch and ſuch outrages, although there bee Gods and Laws*, by which theſe abuſes were reformed. But the *Anonymus* in a preface to *Ariſtophanes* ſaies, μὴ κώμας καλεῖσθαι ὑπὸ Ἀθηναίων, ἀλλὰ δήμους, that they were not called κῶμαι or villages by the *Athenians*, but δῆμοι which they tranſlate

[a] Lib. 1.

[b] Donat. in Præf. in Ter.

[c] Thomas Magiſter.

ſtate *Populos*, better in my minde *oppida* or Townes. *Cicero* [a] *ad Atticum. Venio ad Piræea in quo magis reprehendendus ſum, quod homo Romanus Piræea ſcripſerim, non Piræeum (ſic enim omnes noſtri locuti ſunt) quàm quod M. addiderim. Non enim hoc ut oppido præpoſui, ſed ut loco: & tamen Dionyſius noſter, qui eſt nobiſcum, & Nicias Cous, non rebatur oppidum eſſe Piræea, ſed de eo videro. Noſtrum quidem ſi eſt peccatum, in eo eſt, quod non ut de oppido locutus ſum, ſed ut de loco: ſecutuſq; ſum non dico Cæcilium, Mane ut ex portu in Piræeum (malus enim auctor Latinitatis eſt) ſed Terentium cujus fabellæ propter elegantiam ſermonis putabantur à Caio Lælio ſcribi.* Heri aliquot adoleſcentuli coimus in Piræeum, & idem, Mercator hoc addebat captam de Sunio. *Quod ſi Σήμους oppida volumus eſſe, tam eſt oppidum* Sunium *quam* Piræeus. If ſo be we will have Σήμους to be Townes, *Sunium* as well as *Piræeus* is a Towne. Theſe were formerly kingdomes as [b] *Pauſanias* teſtifies. Πάλαι δὲ ἦσαν Σήμοι, ἔν τοῖς Σήμοις φαίνεται πολλοὶ, ὡς καὶ πρὸς τὰ ἀρχαῖα βασιλευόμενοι τὰ Κέκροπος. Moreover I have written, that ſome of the Townes were governed by a King before the reigne of *Cecrops*. And no marvell, for ſome of them farre ſurpaſſed other Cities, as [c] *Ariſtides* affirmeth. Theſe were moſt peculiar to the *Athenians*, anciently called Ναυκράριοι, as [d] *Ariſtoph. Schol.* or Ναυκραεῖαι, as [e] *Pollux*, twelve belonging to every Tribe. But *Cliſthenes* changed them into Δήμους, as out of *Ariſtotle* the *Schol.* of *Ariſtoph.* The number of them is, as [f] *Euſtathius* out of *Strabo*, and [g] *Caſaubon*, an hundred ſeventy foure. Some whereof having the ſame name are diſtinguiſhed according to their ſituations καθύπερθεν and ὑπόπερθεν, as we may ſay the upper and the lower Wakefield, &c. All of them are divided into Greater and Leſſer. The [h] μικροὶ or leſſe are theſe. *Alimuſii, Zoſter, Proſpaltii, Anagyraſii, Cephale, Praſiæ, Lampreis, Phlyeis, Myrrinuſii, Athmonenſis, Acharna, Marathon, Brauron, Rhamnus.* The reſt were greater. Take them promiſcuous according to their Tribes.

[a] Lib. 7. Ep. 3.

[b] Attic. p. 30. l. 42.

[c] In Panath. T. 1. p. 326.

[d] Nub. pag. 225. c.

[e] L. 8. p. 430.

[f] In Il. b pag. 215.

[g] In Athenæum l. 6. c. 9.

[h] Pauſan. Att. pag. 30.

KE-

ΚΕΚΟΠΙΣ.

Αἰξωνή. Δαιδαλίδαι. Ἐπιείδαι. Ξυπέτη. Πίθος. Συπαλήττιος. Τειρεμεῖς. Ἀθμονον ἢ Ἀθμονία. Αλαὶ Αἰξωνίδες. Φλύα. *Æxone. Dadalidæ, Epiecidæ, Xypete, Pithus, Sypalettus, Trinemei, Athmonòn* or *Athmonia. Alæ Æxonides. Phlya.*

ΕΡΕΧΘΙΣ.

Ἀγραύλη ἢ Ἀγρύλη. Εὐωνυμία ἢ Εὐώνυμον. Θήμακοι ἢ Θήμακος, Κηφισία. Λαμπρά. Καδύαρδεν. Λαμπρά. Ὑπέρθεν ἢ παράλιος. Παμβωτάδαι. Περγασή. Συβρίδαι. Φηγοῦς. Ἀναγυροῦς. *Agraule* or *Agryle. Euonymia* or *Euonymus. Themaci* or *Themacus. Cephisia.* The upper *Lampra.* The lower *Lampra,* in which *Sigonius* erres calling one the maritimate, the other the inferior, which to be one and the same I have shewn above. *Pambotadæ, Pergasæ. Sybridæ, Phegus, Anagyrus.*

Πανδιονίς.

Ἀγγελή. Κυδαθηναιον. Κύθηρον. Οᾶ ἢ Οἷς. Παιανιὰ καθυπέρθεν. Παιανιὰ ὑπέρθεν. Προβάλινθος. Στειριά. Φηγαία. Μυρρινοῦς. *Angele. Cydathenæum. Cytharum. Oa* or *Oeis.* The upper *Paania,* the under *Peania. Probalinthus. Stiria. Phegæa. Myrrhinus.*

Αἰγηΐς.

Αλαὶ Ἀραφηνίδες. Ἀραφλώ. Βατὴ Γαργηττός. Διομεία. Ἐρεχθία. Ἐρικία. Ἐχέα. Ἰκαρία ἢ Ἰκαριεὺς Κολυττός. Κυδαντίδαι. Πλωθεά. Τίθρας. Φηγαία. Φιλαΐδαι. Χολλίδαι. *Ala Araphenides. Araphen. Bate. Gargettus. Dionea. Erecthia. Ericria. Echria. Icaria* or *Icarius. Ionidæ. Colyttus. Cydantidæ. Plotheæ. Tithras. Phegæa. Philaïdæ. Cholleidæ.*

Ακαμαντίς.

Ἀγνοῦς. Εἰρεσίδαι. Ἑρμὸς ἢ Ἑρμοί. Ἡφαιστιάδαι. Θόρικος. Ἰτέα. Κίκυννα. Σφηττός. Χόλαργος Χολαργοί Χολαργία. Κεφαλὴ Προσπάλτιος. *Agnus. Erisidæ. Hermus* or *Hermi. Hephæstiadæ. Thoricus. Itea. Cicynna. Sphettus. Cholargus Cholargi Cholargia. Cephale. Prosspalta.*

Λεοντίς.

Αἰθαλίδαι. Αἰθαλία. Ἀφίδνα. Δεκελεῖς. Ἐκάλη. Ευπυρίδαι Κηφισοί.

Κρωπία Λευκόνιον. Οἶον Κεραμ. Παιονίδαι. Πάληκες. Ποταμός. Σκαμβωνίδαι. Σύριον. Τρᾶ Τρᾶδαι Φρεάρριοι. Μαραθών. Ἀλιμούς. *Æthalidæ Æthalia. Aphidna. Dirades. Hecale. Sypprade. Cetti. Cropia. Leuconium. Oeum Ceramicum. Paenidæ. Pelekes. Potamus. Scambonidæ. Sunium. Hyba Hybadæ. Phrearri. Marathon. Alimus.*

Ἱπποθοωντίς.

Ἀζηνιά. Ἀμαξανλιά. Ἀνάγυρια. Ἀχερδοῦς. Δεκέλεια. Ἐλαιοῦς Ἐλαιῆς. Ἐλεῦσις. Ἐρεσιάδαι. Θυμοιτάδαι. Κηφισιάδαι. Κοζυδαλλός. Οἶον Δεκελ. Οἰνόη Ἐλευθ. Σφενδάλη. *Azenia. Amaxantea. Anacaa. Acherdus. Decelia. Eleans. Eleusis. Eteade. Thymetade. Cephiade. Corydallus. Oeum Decelicum. Oeum ad Eleutherai. Sphendale.*

Ἀντιοχίς.

Ἀγναλίδαι ἢ Αἰγαλῆς. Ἀλωπεκὴ Ἀλωπεκαί. Ἀμφιξυπή. Ἀναφλυστοί. Ἀτήμη Ἀτηνία. Βήσσα. Θορικός. Κεφισία. Λευκοπύρα. Μελαινεῖς ἢ Μέλαινα. Παλλήνη. Πεντέλη. Σημαχίδαι. Φάληρον. *Ægilia* or *Ægilus. Alopece* or *Alopeca. Amphitrope. Anaphlystus. Atene* or *Atenia. Bessa. Thoræ. Criôa. Leucopyra. Melaneis* or *Melæna. Pallene. Pentele. Semachidæ. Phalerum.*

Αἰαντίς.

Οἰνόη Μαραθ. Τιτακίδαι. Τετρώρυθος. Ῥαμνοῦς. *Oenoe* at *Marathon. Titacidæ. Tricorythus. Rhamnus.* Of this Tribe were some towns taken away & put to other, *Aphydna, Persidæ, &c.*

Οἰνῆις.

Βῆλεια, Βηλαίδαι, Ἐπικηφισία. Θρία ἢ Θρίων. Ἱπποτομάδαι. Λακία, Λακιάδαι. Λεῦσις. Μελίτη. Οἳ ἢ Οἴη. Πειρεσίδαι. Πηλέα. Φυλή. Ἀχάρνα. Τυρμίδαι. *Butea, Butadæ. Episcephisia. Thria* or *Thrio. Hippotomadæ. Lacia Lacindæ. Lusia. Melite. Oe* or *Æa. Perithadæ. Ptelea. Phyle. Acharna. Tyrmidæ.*

Πτολεμαΐς.

Βερενικίδαι. Θυργωνίδαι. *Beronicidæ. Thyrgonidæ.* Κονθύλη. *Conthyle.*

Ἀπαλίς.

Ἀπολλωνιῆς. *Apollonienses.* These are all which authours make

make mention of according to their Tribes, others there are, which I know not how to distribute, none of the Antients either directing or furnishing me. But these are they: *Agra*, *Anchesmus*, *Amphiade*, *Archilia*, *Astypalæa*, *Atalanta*, *Achradus*, *Belbina*, *Brauron*, *Brilessus*, *Enna*, *Echelidæ*, *Zoster*, *Thrion*, *Gale*, *Cedæ*, *Cothocidæ*, *Coele*, *Cynosarges*, *Ceramicus* without the City, the same with *Academia*, *Laurium*, *Lenæum*, *Limnæ*, *Munychia*, *Parnes*, *Pnyx*, *Patroclus* his ditch or trench, *Scirum*, *Spergilus*, *Hydrusa*, *Hymettus*, *Hysiæ*, *Phaura*, *Pharmissi*, *Paritttii*, *Phoron*, *Chitone*, *Oropus*. To which are put the Ilands, called *Pharmacusæ*, two in number and *Psyttalia*. The Scholiast of [a] *Aristophanes* speakes as if *Io* were a *Demus*, but I say not with him. The greatest use we have of these among authors, is in their forme of Law, matters of contracts, and the like, that there might be no fraud or deceit; that none either unjustly be taxed for any thing, or tax an other. Hence we read such punctuall clauses in their writs; N. the son of N. dwelling at *Alopeca*, ἐκ Κοίλης, ἐκ Μελίτης. ἐκ Κεραμέων, of *Cale*, of *Melite*, of *Ceramis*. In these villages were Temples of the gods. [b] *Livie*, *Templo pagatim sacrata*. And againe, *Delubra sibi fuisse, quæ quondam pagatim habitantes in parvis illis castellis vicisq; consecrata, ne in unam quidem urbem contributi majores sui deserta reliquerint*. So much witnesseth [c] *Pausanias*, who tells us that they worshipped some peculiar Deity, and yet nevertheless did τῷ Ἀθηνᾷ ἄγειν ἐν πλῷ, honour *Minerva*. Some of them had peculiar festivalls, as *Brauron* the solemnities *Brauronea*, to *Diana*. *Diomea* to *Jupiter Diomeus*, *Chitonea*, &c.

[a] In Ranis p. 235.

[b] Dec. 4. l. 1. p. 12. 13.

[c] In Atticis p. 77. l. 40.

CAP. VII.

Τυραννὶς. Ὀλιγαρχία. Δημοκρατία. *Athenienſium ſtatus mutatio.* Ἰσόδις Σωτήρων Μήνας Δάξ.

THe Ancients had but three ſorts of government. *Tyrannis, Democratia, Oligarchia* as [a] *Æſchines*, which *Polybius* calls βασιλείαν, ἀριστοκρατίαν, δημοκρατίαν. where although the one names it a *Tyrannis* or Tyranny, the other βασιλεία the rule of a King, yet muſt we underſtand the ſame. For in old time all Kings were called Tyrants, as *Servius* on *Virgil* hath obſerved. A word taken up by the *Grecians* about the time of *Archilochus*, which neither *Homer*, nor *Heſiod* knew; and therefore are the Poets noted, as, ἅπαν πεπιθότες, for calling the Kings, or βασιλεῖς before the *Trojan* wars, Tyrants or Tyrannos. Βασιλεία or a Kingdome, is where obeiſance is free, yeelded rather out of a good advice, then for feare or might. Ἀριστοκρατία an Ariſtocratie, when moſt wiſe and juſt men are fitly choſen to ſit at the Helme of the Weale publike. Δημοκρατία a Democratie, when the Laws and cuſtomes of the Country in matters belonging both to Gods and men are truly obſerved, and that rules the roſt, which ſhall be approved of by the greater part, τὸ δόξαν τοῖς πλείοσι, ſaies *Polybius*; as that may be ſaid at a banquet to pleaſe all, which doth reliſh well with the moſt. But the grave Hiſtorian hath obſerved changes in ſuch government, as they uſe to be, inclining to the worſt, Monarchies being turned into Tyrannies; as when the people are led away by the perſwaſions of ſome pleaſing [b] popular man, and are as it were, willingly conſtrained to take the yoke that his uſurping authority ſhall lay on them, a Tyrant indeed ſaid. [c] *Viconſecutus*, who gets it by violence, [d] *Omnes autem & habentur & dicuntur Tyranni, qui poteſtate ſunt perpetua in ea civitate, qua libertate*

[a] In Cteſiphontem p. 4.

[b] Ariſtot. l. Pol. 5. c. 4.

[c] Probus in Miltiade.

[d] Probus ibid. p. 17.

bertate uſa eſt. But all are accounted and called Tyrants, who have perpetuall authority in that City, which formerly hath enjoyed liberty. The deprivation of which cauſing murmuring and rebellion, brings forth an *Ariſtocratie*, or government of the beſt men, ſuch as are well brought up, and exerciſed in vertue. The end of an *Ariſtocratie* being, as [a] *Ariſtotle* hath it, *Vertue*, which of no long continuance doth ſoon degenerate, [b] εἰς ὀλιγαρχίαν πανοῦργος καὶ φύσιν, naturally enclining to an *Oligarchie*, or rule of few. Theſe few being choſen according to their riches. And becauſe that many in a ſtate cannot be wealthy, therefore the number of them cannot be great. Theſe are great Lords and little Kings, whoſe power ſwaies all, and not the Laws; who unjuſtly favour thoſe that are partially theirs, and oppreſſe them that would defend their liberty againſt them. All things being adminiſtred [c] πρὸς ἡδονὴν τῶν ἐφεστηκότων, by their preſidents. Such dominion is taken away by the people ſet on a rage, and not bearing τὰς τῶν ἐφεστώτων ἀδικίας, the injuries of their rulers. Hence comes in a *Democratie*, which *Sophocles* calls ὅταν τὸ πλῆθος κρατῇ, the power of a multitude, whoſe end is freedome, when all can equally partake of the ſame priviledges and immunities, who are true citizens; whence *Terence* ſtiles it *æquam libertatem*, for which the *Greek Oratours* have properly uſed the word πολιτεία, as [d] *Vlpian* obſerveth. But the vulgar for the moſt part ſtrangely inſolent, prone to wrong, and ready to treſpaſſe againſt the Lawes, bring in by a miſerable proceeding, the worſt kinde of government an *Ochlocratie*, the rule of Raſcality. All theſe in their times did *Athens* feele, for they were governed by Kings foure hundred eightie ſeven years: the laſt of which was *Codrus*, who in a fight between the *Dorienſes* and *Athenians* offered himſelfe willingly to be ſlaine, it being foretold by the Oracle of *Apollo* that the *Dorienſes* ſhould be conquerours unleſſe the *Athenian* King were killed; he therefore clothing himſelf *famulari veſte ne poſſet agnoſci*, ſaies [e] *Cicero*, with a ſervants habit leſt he ſhould bee knowne

a Pol. l. 4. c. 9.

b Polyb. l. 6.

c Æſchines in Ctei.

d In Demoſt. p. 59.

e Tuſc. Q. l. 1.

known, put himself among the enemies, by one of which in a brawle he was murdered. After whom none enjoyed the
a Justin. l. 2. name of King, a *quod memoriæ nominis ejus tributum est*, which was done in memory to his name. For after that, *Archontes* or *Judges* ruled; in the Title ἄρχοντες, *Archontes*, but in power Kings, whose authority was for tearme of life. These continued three hundred and fifteen years. These being ended, it pleased the State to choose a man, whose office should continue but ten yeares; seven succeeded each other, and made up the number of seventy yeares; who, because they abused their power, were made but for one yeare, called therefore b *annui Magistratus*, yearly Magistrates. These
b Justin. l. 2. continued *Pisistratus*, for a fained feare of the seditious, begged a guard of the people for his safety. For when the faction sprung up, of which I have spoken in the fourth Chapter, hee cutting himselfe with lashes, and the Mules which drew his Chariot, went into the place of meeting, ἀγορὰν, and beseeching the people to afford him some defence against their violence, who did (but did not) assault him, procured a company of chosen Citizens who armed with clubs, not weapons, possessed the Castle, and
c Heraclides in Pol. so Tyranny came in, which *Pisistratus* enjoyed c thirtie yeares, and deceased, leaving behinde him two sons, *Hipparchus*, and *Hippias*, whom *Heraclides* calls *Thessalus*. *Hipparchus* was slaine by *Aristogiton*, after whose death the *Athe-*
d Herodotus l. 5. p. 135. *nians* lived under a tyranny d foure yeares, from which they were delivered by the helpe of the *Lacedæmonians*, the offspring of *Alcmeon* corrupting the Oracle, to the end that whensoever they came for counsell he should wish them to free the *Athenians* of that servitude. The *Democratie* came in eight hundred sixtie eight yeares after *Cecrops*, established by *Solon*, who excluded the fift rank of plebeitie from office or honour by a law, afterwards abrogated by *Aristides*. After this *Pericles* brought in an *Ochlocratie* by weakning the power of the *Areopagites*. Then after the overthrow in *Sici-*

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by the Τετρακόσιοι, or foure hundred tooke upon them ſtate, deceiving the people, as [a] *Ariſtotle* and [b] *Thucydides* affirme. For perſwading them that they ſhould reconcile *Tiſſaphernes* and *Alcibiades* unto themſelves by that meanes, and that the Perſian Monarch would afford ſupply for the war, they moſt willingly condeſcended to this motion in the one and twenty yeare of the *Peloponneſian* warre. Theſe Princes were called [c] πεντακισχίλιοι, τετρακόσιοι ὄντες, five thouſand, though not exceeding foure hundred. The reaſon is, becauſe they boaſted that none ſhould be rewarded, but who bare armes; nor any admitted to publique power but five thouſand, ſuch as with perſon and eſtate could be beneficiall to the Republique. Their authority was granted by an [d] Act of the people, to which *Theramenes* was very forward, but after they were inducted none more ready to drive out; whereupon they termed him Κόθορνον *Cothurnum*, from a kinde of ſtart-up which did fit both feet. καὶ ὁ Κόθορνος ἁρμόττειν μὲν δοκεῖ καὶ τοῖς ποσὶν ἀμφοτέροις δοκεῖ. The word may ſute with a Jack of both ſides. Theſe Τετρακόσιοι were conſtrained for feare of [e] *Alcibades* to reſigne the right unto the people, and to goe into wilfull baniſhment. But when *Lyſander* had overcome *Athens* (the [f] *Lacedemonians* ever affecting an *Oligarchie*, as the *Athenians* a *Democratie*) he ordained theſe thirty to be chiefe: [g] *Polyarches*, *Critias*, *Melobius*, *Hippolochus*, *Euclides*, *Hiero*, *Meneſilochus*, *Chremo*, *Theramenes*, *Areſias*, *Diocles*, *Phædrias*, *Chærileos*, *Anætius*, *Piſo*, *Sophocles*, *Eratoſthenes*, *Charicles*, *Onomocles*, *Theognis*, *Æſchines*, *Theogenes*, *Cleomedes*, *Eraſiſtratus*, *Phido*, *Dracontides*, *Eumathes*, *Ariſtoteles*, *Hippomachus*, *Meneſithides*. They began at firſt to put to death the worſt and moſt abhorred, ſaies [h] *Saluſt*, without triall of law, but afterwards the good and bad alike; [i] ſome for envie, others for riches. Theſe to make their party firme choſe about three thouſand to whom alone they permitted to have weapons, diſarming all the reſt, to the end they might eaſily command their lives. But by their lawes (for they made ſome

[a] Pol l.c.57
[b] Lib.8.
[c] Plat. in Alcyb.p.148.
[d] Xen.Ελλ.β. 274.l.38.
Xen.p.275.
[e] Juſt in.l.5.
[f] Ariſt.Pol.l.5 c.7.
[g] Xen.Ελλ.β. p.270.
[h] In Catil. Conſp.
[i] Xen.p.272.

[a] Xen. p. 275. some, ſtiled [a] κοινοὶ νόμοι, which were nullified by a decree, as we ſhall ſpeak hereafter) none was to ſuffer ἐπὶς καταλόγου, who was regiſtred in the liſt of three thouſand. So cruell were they, that the people fled into [b] *Phyle* a caſtle in the *Athenian* borders; and making an head, under the conduct of *Thraſybulus*, at laſt ſhook off his yoke, and remained free untill the death of *Alexander* even foureſcore yeares, whom *Antipater* ſucceeded, who in battle at the City *Lamia* gave the *Athenians* an overthrow, and gave them quarters on theſe termes that they ſhould ſubmit to a few *Peeres*, whoſe revenues amounted to two thouſand *Drachm'es* at leaſt, the chiefe of whom was *Demetrius Phalereus*, that they ſhould likewiſe receive a garriſon into *Munychia* for the aſſwaging of riots and uproares. But foure years after, *Antipater dying*, the City fell into the power of *Caſſander*, of whom they often ſtrove to acquit themſelves. But in vain. For he brought them to ſuch an exigencie, that they were glad to come to compoſition. And indeed he dealt fairely with them, giving them their Citie, Territories, Tributes, and all other things, ſo that they would be confederates to him, that none, whoſe revenewes come not to tenne *mine* or pounds, ſhould undergoe any function in the Commonweale; and he ſhould bee their overſeer whom he would be pleaſed to nominate. The man appointed was *Demetrius Phalereus*, [c] who made the Citie to ſhine in her full luſtre, inſomuch that they erected in honour of him three hundred Statues. He wrote a Treatiſe of the *Athenian Republique*, which had not time devoured, would have given no ſmall light to my poore endeavours. After he in trouble and vexation had ſpent fourteene yeares he was put out by *Demetrius* the ſonne of *Antigonus* ſurnamed *Poliorcetes*, who reſtored the ancient cuſtomes to them againe. To him they aſcribed ſuch worſhip, as alſo to his father, that they changed the name of their *Judge* from *Archon* into [d] Σωτῆρων ἱερέα. The Prieſt of the Gods that ſaved them, calling the yeare after his name, and adding * two Tribes to the

[b] Dem. p. 467.

[c] Vide Laert. in vita, & Strabonem.

[d] Plut. in Demetrio.

* Pollux l. 8.

the Tenne, whence the Senate consisted of six hundred, but five before, as [a] *Stephanus*, but when *Cassander* had overthrowne the sonne and father, such was the ingratitude and levity of the *Athenians*, that they forbad *Demetrius* to approach neare their City. After this *Lacharis* plaid the Tyrant, and was expelled by *Demetrius*, whom they utterly cast off, assuming againe the title of *Archon*. *Demetrius* dying *Antigonus Gonatas* succeeded, who in the nineteenth year of his reigne put in presidiarie souldiers to the City, which tenne years after he tooke out. The *Macedonians* still kept some of the *Athenians* forces in this space. *Demetrius Antigoni Gon. F.* & *Antigonus Doson*, out of whose hands [b] *Aratus* the *Sicyonian* rescued the City, and made it stand by it selfe untill *Philip*, the last king of the *Macedonian Monarchy* except one, did somewhat shakeit, as you may read in [c] *Livie*. But he was expelled by the Romans, who tooke the *Athenians* into league, with a maintaining of their ancient right. So they remained untill the war between *Mithridates* and the *Romans*. For by feare they were driven to receive [d] *Archestratus*, *Mithridates* his Generall, within their walls; against which *Sylla* laid siege, and captivated the City, whence proceeded ἀνελεὴς σφαγὴ, a mercilesse slaughter, saies *Appian*, that the [e] streets did run with blood. But the Lawes were not much altered by this Conquerour; and therefore they lived in a neare resemblance of their former state; in favour with the *Roman* Emperours. *Julius Cæsar*, *Adrian*, *Antonius*, *Gallienus*, in whose successours time *Claudius* the second of that name, this City was ransacked by the *Gothes*, who when they had heaped up innumerable companies of bookes to burne, were dehorted by this reason, [f] *that the Greekes, spending their time in reading of them, might be made more unfit for war*. *Constantine* the *Great* likewise had this City in high esteeme, taking to himselfe the Title of Στεφανηφόρος Ἀθηνῶν, as [g] *Julian* saies, which in the words of *Nicephorus Gregoras* is [h] τὸ τῆς μεγάλης Δυκὸς (ὄνομα) the *Grand Duke*, whom simply afterwards

[a] In Berenice.

[b] Plut. in vita.

[c] Decad. 4. l. 1.

[d] Vide Appianum Alex. in Mithridatico, circa pag. 122. 123. &c.

[e] Plut. in vita. p. 335.

[f] Cedrenus Baptista Egnatius. Rom. Prin. l. 1.

[g] In Oratione Constantium.

[h] Hist. Rom. l. 7. p. 166.

wards they called the [a] Duke of *Athens*, in that Historians time. Emperours have taken them wives citizens of this place, and the [b] daughters of their Dukes have beene desired by that eminent ranke. And indeed no marvell. For they were potent. *Rainerius Acciajolus* is said to have taken the Citie from the *Spaniards* that inhabit *Arragon*, [c] who having no issue male of his wife, *Euboia* but an illegitimate named *Antonius*, by another woman, bequeathed by will *Bœotia* and *Thebes* to him, but *Athens* to the * *Venetians*, from whom his sonne recovered it againe. *Nerius* succeeded him in the Dukedom who thrust out *Chalcocondilas* his father. After him came in *Antonius Nerius* brother to the former *Nerius*. Now about this time we must know that *Mahomet* the sonne of *Amurat* the second got *Athens*, [d] whose beauty and building he held in admiration; which when he had made his own, he continued the Title. For another *Nerius* from those above named dying, leaving one sonne an infant, his mother in the childs Title exercised Tyranny. The woman loved a *Venetian* Noble man (sonne to *Petrus Palmerius*, to whose government the Citie *Nauplium* was committed, he is called by *Chalcocondilas Priamus*) who came thither for merchandize. Him by discourse and flattery she inticed into her love, promising that she would take him to her husband, and give up the Princedome of *Athens* unto him. But upon condition, that he would divorce his owne wife. Whereupon the young man going to *Venice* slew his wife, swelling with ambition, and thirsty of honour. Which being done, he returnes to *Athens*, marries this woman, enjoyes the government of the Citie; who being hated of the *Athenians*, and complained of at the Court, to avoid envy termed himselfe the *Childes* Tutor. And not long after taking the boy with him, went to the Court, where *Franeus Acciajolus* waited, expecting to be promoted to the Dukedome. When the Emperour therefore understood the folly of the woman, he gave the title to him. Who being enstalled, im-

[a] Hist. Rom. l.7.p.167.
[b] Nic. Greg. lib.cita.
[c] Chalcocon. Ἀπὸ Ἀγγλίας ἦν ὁ Νασάρης.
* In the time of *Pietro Zani* came Ambassadors from Athens to doe homage to the Venetian Senate. M. Leukenor in history and lives of the Venetian Princes.
[d] Chalcocon. l.9.p.299.

imprisoned the woman at *Megara*, and afterwards (by means not known to the [a] Author) slew her. This *Francus* in time was taken away from men by *Zogan* governour of *Peloponnesus*, *Mahomet* having intelligence that the *Athenians* would have delivered the Citie to the Prince of *Bœotia*. Hee was the last Duke.

[a] Chalcocon. p. 300.

LIBER SECVNDVS.

CAP. I.

Duodecim Dii Athenienſium Idololatria ſeptifariam commiſſa. Dii Adſcriptitii. Θεοὶ Ἀγνωστοι.

[a] Pag.48.

[b] In Tractu περὶ Ἡροδότου κακοηθείας. p.669.

[c] Sch.Eurip. in Alceſt. pag. 661.

[d] Ζωναſ. ἰσσρ. in Stel.1.

[e] Pag.260.

[f] P.281.

HErodotus in [a] *Terpſichore* is of opinion that the Greekes derived their religion from the *Ægyptians*. But [b] *Plutarch* doth ſtoutly deny it. And not without good teſtimony may I affirm that it ſeemes to be a falſity. For *Orpheus* is thought to have brought the myſteries of pietie into *Greece*; who was himſelfe a *Thracian*, from whom the word Θρησκεία is ſuppoſed to be drawn, which ſignifies devotion. Γίγνεται δὲ πολλὰ θεοὺς ἐκάλεσαν θρησκεύειν, ὡς Θρᾳκίας ὄντας τὰς εὐσεβείας, ſaies [d] *Nonnus*. They called Θρησκεύειν, to worſhip God, &c. Appoſitely to which [e] *Ariſtophanes* ἐν Βαλεάχοις.

Ὀρφεὺς μὲν γὰρ τελετὰς θ' ἡμῖν κατέδειξε, φόνων τ' ἀπέχεσθαι.

Orpheus ſhewedus ſacrifices and to abſtaine from ſlaughter. Neither is [f] *Euripides* diſagreeing in *Rheſo*.

Μυσηείων τε γὰρ ἀπορρήτων φανὰς
Ἔδειξεν Ὀρφεύς---- *Orpheus revealed the hidden myſteries.* *Herodotus* names not the Gods, the worſhip of whom the *Greeks* might borrow from the *Ægyptians*; Twelve in number

number they were, quoth he, but these only are reckoned, *Jupiter. Bacchus. Hercules. Apollo. Mars. Pan.* Diana. *Isis* or *Ceres. Sais* or *Minerva. Latona.* as I have gathered, which all at once to have beene made knowne to the *Greekes*, and that by the *Ægyptians* is too hard a taske for me to prove. The *Athenians* I am sure had twelve Gods in especiall honour, whose [a] pictures they had drawne out in a Gallery in *Ceramicus*; and had an Altar erected, called [b] Βωμὸς τῶν δώδεκα θεῶν, on which a little before the *Sicilian* war, a man dismembred himselfe with a stone, which was accounted prodigious. By these twelve would they swear in common discourse. [c] Μὰ τοὺς δώδεκα θεούς. The heathens thinking that they did honour those Gods, by whom they sware, as I have elsewhere spoken. But they were not confined to so small a number as twelve. For how could it be, when they ran through the seven sorts of Idolatrie? First worshipping the Sun, and punishing with death the neglect thereof; as you may read in [d] *Plutarch* in the life of *Pericles*. Secondly, deifying the effects of God, as bread, &c. For *Clemens Alexandrinus* interprets Δηώ, *Ceres*, ἀπὸ τοῦ δεῖν, corne or food. Thirdly, the poeticall Gods. *Furies and revengers of wickednesse*, as *Alastores*, *Palamnei*. Fourthly, the Passions, as *Love*, *Pity*. *Injury* likewise and *Impudence*, to whom *Epimenides* built an Altar at *Athens*. Fiftly, the accidents of grouth and nourishment; hence *Auxo* and *Thallo* two deities, αὐξάνειν, to increase, and θάλλειν to flourish; to which may be put *Clotho*, *Lachesis*, and *Atropos*, the three fatall sisters, and Ἀνάγκη, *Necessity*, taken sometime for death it selfe. Sixtly, the Theogonie or pedigree of their Gods, able to make up the summe of which *Homer* speakes. Τρεῖς χιλιοστύες &c. Three thousand. Seventhly, an ignorance of the providence and bounty of God toward them, fained *Hercules* the repeller of evill, and *Æsculapius* the God of Physick. And if this serve not, I can adde an eighth way, namely hospitality and good entertainment of strange Gods. Ἀθηναῖοι δ' ὥσπερ ἐπὶ τὰ ἄλλα φιλοξενώτατοι διατελοῦσι, ἔχω

[a] Paus. Attic. p. 3. l. 18.

[b] Plut. in Nicia. pag. 387. l. 26.

[c] Aristoph. Equ. p. 300. A.

[d] Vide Bodinum in Demonologia.

[a] Pag. 471. ἢ ἀεὶ τοὺς θεούς. sales [a] *Strabo*, as the *Athenians love forrainers, so forraine Gods.* Οὐ γὰρ μόνον τοὺς πρεσβυτάτους ἀεὶ τῶν θεῶν, &c. [b] *Aristides.* For they serve not only the most ancient Deities, in a peculiar manner above all their followers, but have assumed adventitious ones; such as [c] *Orthane, Conissalus*, and *Tychon.* So prone were they to conceive superstition, that when [d] *Paul* preached *Jesus and the resurrection of the dead*; they forthwith deemed *Anastasin*, or resurrection to be a God. And lest they should omit any, they erected Altars to the unknowne Gods, of which [e] *Pausanias.* Neither may we doubt of it, the Scripture bearing witnesse. The cause of this they say to be a fearfull vision appearing to *Philipides*, sent Ambassador to the *Lacedæmonians* concerning aid against the *Persians*, and complaining that he ([f] *Pan*, from whom παντὸν *à spectrum*) was neglected and other Gods worshipped; promising likewise his helpe, they therefore being victorious, and fearing the like event, built a Temple and Altar TO THE UNKNOWNE GOD. Another opinion is, that a plague being at *Athens* hot, and the people finding no helpe from the Gods they implored, surmising some other power to have sent the disease, whereupon they set up this Altar, on which was written ΘΕΟΙΣ Ἀσίας καὶ Εὐρώπης, καὶ Λιβύης, Θεῷ Ἀγνώστῳ καὶ Ξένῳ. TO THE GODS OF ASIA, EUROPE, AND AFRICA, TO THE UNKNOWN AND STRANGE GOD. As *Justin* [g] *Martyr* and *Oecumenius.* Much may be said of their Tutelar Gods, both for their Cities and houses, much of their *Heroes* or Demigods. We will view them in order.

[b] In Panath. T. 1. p. 188.

[c] Strab. p. 587.

[d] Act. Apost. c 17. v. 18.

[e] In Attic. p. 1. l. 35.

[f] Vide Eurip. Sch. in Med. p. 482.

[g] Pag 137.

CAP.

CAP. II.

Jupiter Βασιλεύς. Νίκη Θ. Ἱκέσιος Θ. Πολιεύς Θ. Βελαῖος Θ. Φράτριος Θ. Φίλιος Θ. Ὁμόγνιος καπνοδόκης. Ἕρκιος Θ. Ἀγοραῖος Θ. Ξένιος Θ. *Modii salis edendi, Tessera hospitalis seu Symbolum. Apollo* Πατρῷος. Πατρῴος. Ἀλεξίκακος. Οὐράνιος. *Pæan, & ejusdem verbi origo. Mercurius* Παλιγκάπηλος. Ἐριούνιος. Σῶφρων. Πρόπυλαιος.

ABove other of their Gods *Jupiter* was had in high esteeme. And that commanded by the Oracle. For when the *Athenians* were bidden to dissolve their kingdoms, they were charged to make choice of *Jupiter*, [a] πρεσβεύειν τὸν Διὰ Βασιλέα. And so by [b] *Aristophanes* he is called Ζεὺς Βασιλεύς. Him they worshipped as *President of Law and Justice*, under the name of *Jupiter* [c] *Nemius* (different from that of *Corinth*. named Νέμειος.) Him as *God of Supplicants*, hence [d] Ἱκέσιος, Him as *Protector of Cities*, hence πολιοῦχος. Him as *Governour and director of their counsels*, hence Βελαῖος. Him as *chiefe of their Societies*, hence φράτριος, and of their friendship too, hence φίλιος; and of kindred likewise, hence ὁμόγνιος. To him they ascribed *Thunder*, hence [e] Ζεὺς Καπνοδόκης, as much as comming downe in thunder. To him they thankfully acknowledged their delivery from the *Persians*, wrought by *Themistocles*, hence [f] Ἑλευθέριος. Him they confessed the *greatest of all*, hence [g] Ὕπατος. Him the *overseer of their buying and selling*, hence [h] Ἀγοραῖος. To him stood an Altar sacred in the *courts of their houses*, hence *Jupiter Hercæus*, from Ἕρκος a wall, as if hee were the watch and defender of the house. *Phavorinus.* Ἕρκιος Διὸς βωμὸς ἔξω τῆς θύρας τῶν αὐλῶν, αἴθριος δὲ οὐκ ἔστιν, ἐν ᾧ ἔθυσαν Διὶ Ἕρκει τῷ ἕρκει. There was also an Altar to him before the gates, of which [i] *Ovid.*-- *Ante ades stabat Jovis Hospitis ara*, hence *Jupiter Xenius*, as if he were the *God of strangers and hospitality*. So solemne were they in their entertainments, that

[a] Sch. Aristop. p. 122.
[b] In Nubibus.
[c] Dem. in Mid. p. 251.
[d] Ulpian in Dem. p. 273. Paus. p. 18. l. 40. Who thinkes *Scylla* to be eaten with lice by a judgement, that slew *Arbion* suppliantly flying to the Temple of *Minerva*.
[e] Aristoph. Avib. p. 626.
[f] Plut. & Paus.
[g] Pausan.
[h] Aristoph. p. 317.
[i] Metamorph.

that they would not receive a ſtranger without great ceremonies, ſuch as giving of the right hand each to other [a] σιτῶν σύνες ἀλλήλοιν, a moſt certain ſigne of fidelity, and ſecurity; as alſo waſhing and cleanſing with ſalt, or ſalt water, as [b] *Tzetzes* on *Lycophron*, whence it is called ἁγνὸς πόνος. Salt they highly eſteemed of, ever upbraiding violated hoſpitality with [c] πῶς ἅλις, &c. where is the ſalt? And yet it may be thought to be ſaid of the community of the table [d] ἐσθὲν ἅλα σὺν ἀλλήλοιν μὴ κακουργεῖν τοὺς ὁμοτραπέζους καὶ συνεδρίους, cuſtomes ſhewing that fellow commoners, and ſuch as feed of the ſame table muſt not injure one another, to which the old ſaying may well agree, [e] *multos modios ſalis ſimul edendos eſſe, ut amicitiæ munus expletum ſit*, Men muſt eat many buſhels of ſalt together, before they can be perfect friends; meaning that friendſhip is not to be ſoone eſtabliſhed. But I take ſalt, of the luſtration, to which alſo they added fire, as you may ſee in [f] *Ariſtophanes*. Neither was this all, for they ſacrificed moreover, calling *Jupiter* to witneſſe, and uſing theſe words in the time of ſacrifice; [g] Εἰς Διὰ Ξένιον ἁμαρτὴν, εἰ ἀδικῶ ξένους. *Let my treſpaſſe be againſt Jupiter Xenius, if I offend, contemne, or neglect ſtrangers.* And for the continuation of this even to their poſterity they were wont to cut an huckle bone in two, the one party keeping one peece, the other party the other halfe, that when occaſion or neceſſity ſhould make either of them ſtand in need of other, [h] ἐπιγράψαι τὸ ἥμισυ σφράγιον, ἀναγίγνωσκον τὴν ξενίαν, *bringing with them their halfe huckle bone they might renew their hoſpitality.* This they call σύμβολον *Symbolum* a token, which ſometimes they would ſend to their acquaintance in others behalfe, as *Jaſon* in *Euripides* offers to *Medea* to doe. Πέμπειν τοξένοις σύμβολ' ὁι δεήσουσί σ' ἀεί And to ſend a *Symbolum* or token to ſtrangers that ſhall courteouſly entertaine you. But of this enough, as alſo of *Jupiter*, whom celebrated in [i] other Epithites I know by the *Athenians*. *Apollo* was next in requeſt to *Jupiter*, invocated in *danger or ſudden events*; hence [k] Ἀποτρόπαιος, from ἀποτρέπω, to turne away, as if he

[a] Euſtath. in Il. Σ.
[b] Pag. 27. But *Euſtath.* ſaies that they did ſet ſalt before any other meat to ſtrangers.
[c] Demoſth p. 241.
[d] Tzetzes in Lycoph p. 28.
[e] Cic. de Amicitia. *Euſtath.* ſayes that it betokens love permanent. For ſalt preſerves. And as it is made of many lettings in of water, ſo they who come fro divers places by hoſpitality are made one. In ἁλα. p. 100.
[f] In Acharn. p. 414. vide Sch.
[g] Euſtath in Il. λ.
[h] Eurip. Sch. p. 446.
[i] As πολιεὺς. Ariſtophan. ὄμβριος. Pauſan &c.
[k] Ariſtophan. πλ p. 86.

he ſhould deliver them from eminent evill, for which reaſon he is called *Alexicacus.* [a] *Apollinem aſpellentem mala intelligas, quem Athenienſes* Ἀλεξίκακον *appellant.* He was one of the firſt Gods they had, hence is he termed [b] πάλαιος, but [c] others thinke becauſe he was the father of *Ion.* [d] *Macrobius* is of opinion, becauſe the *Sun* the ſame with *Apollo,* is the Author of progenerating all things, *quod ſol humoribus exſiccatis progenerandis omnibus præbuit cauſam.* To him ſtood Altars in their ſtreets, hence is he ἀγυιεύς: as if he were ſet over their waies [e] *Illi enim vias, quæ intra pomœria ſunt,* ἀγυιὰς. This *Agyeus* was a ſharp pillar [f] κίων ὀξὺς ὡς ἐπὶ τὸ πολὺ λίθου. Although the *Greeks,* as [g] *Macrobius* ſaies, did worſhip him as Θυραῖον, *exitus & introitus potentem,* one that kept the doores of their houſes, yet I finde no monument of that Title in *Pauſanias.* Famous he was for the name of *Pæan,* of which though I have taken occaſion to ſpeake elſewhere, yet this is a moſt proper place. I will not trouble you with the triviall derivations of the *Greekes,* which you read in [h] *Athæneus.* When the *Athenians* asked helpe of the *Oracle* at *Delphos* againſt the *Amazons* in the daies of *Theſeus,* the God bid them implore his ſuccour in theſe words ἰὴ Παιάν. [i] *Hanc vocem, id eſt* ἰὴ Παιάν, *confirmaſſe ferunt Oraculum Delphicum Athenienſibus, petentibus opem Dei adverſus Amazonas, Theſeo regnante. Namq; inituros bellum juſſit his ipſis verbis ſemetipſum auxiliatorem invocari, hortariq;.* I doubt not but the words are changed ſomewhat, eſpecially if we conſider the ancient *Io Paan. Paan,* ſaies the [k] *Scholiaſt of Ariſtophanes* is a ſong or hymn praying for the ceaſing of a plague, or war, nay for the preventing of apparent hurt. The originall of *Io* [l] *Scaliger* hath already found, *Iao,* and *Io* being contracted by the *Greekes* for *Jehova; Paan* then comes from פנה to look, ſo that *Io Paan* is in force *Jehova Penoh,* LORD LOOKE UPON US, it being a craft of the Divell to come as near as poſſibly he may to God, ſo to bereave him of his deare honour, if he could. The remnants of theſe words the [m] *Symerons*

[a] Macrob. Sat. 1 p. 253.
[b] Ariſtoph. Nub. p. 103.
[c] Ariſtoph. Sch. p. 611. g.
[d] Satur. 1. p. 237.
[e] Macrob. Sat. 1 c. 9.
[f] Schol. Eurip. Phæ p. 322.
[g] Sat. 1. c. 9.
[h] In fin. lib. 14. Dip.
[i] Macrob. Sat. l. 1. c. 17. pag. 253.
[k] In Plut. pag. 68.
[l] Græc. Trag.
[m] Vide Sir Fr. Drake.

a people of the West Indies, who in their fighting dance, and leap, and sing *Yo Pebó*, at this day. *Mercury* is hallowed by the name of [a] πολυχρήματος or Ἐμπολαῖος, deemed to be the God whose favour could enrich Merchants and Tradesmen. He is the God of craft, so by consequence he is that cunning to cheat may soone grow rich, wherefore this God is termed [b] Εὐτύχιος, *Very profitable*, from εὖ, an augmenting word, and τύχη to profit. He had a statue erected to him in the Market place called [c] Ἑρμῆς Ἀγοραῖος. The entry of their houses was sacred to him, from which he is named [d] Προπύλαιος, as likewise Σωρὸς from σῴζειν, to turne, because he was set up behinde the doore to keep away theeves, that were wont to lurk thereabout, and then afterward commit their villanie. More of his names you may read in [e] *Aristoph. Schol.*

[a] Aristop. πλ. p. 110. Ach. p. 410.

[b] Aristop. Cat. p. 266.

[c] Aristop. 304.

[d] Paus. p. 20. l. 35.

[e] Pag. 110.

CAP. III.

De Saturno, Vulcano, Neptuno, Marte, Hercule, ἄναυτις.

Saturne was worshipped by the *Athenians*, witnesse the feasts kept in honor to him called Κρόνια, witnes a [f] Temple which he had in *Athens*. Of his antiquity I cannot much affirme any thing. He seemes to have beene of old, as I conjecture out of [g] Κρονικὴ γνώμη, *Saturnine anime*, put for dotage proverbially. *Vulcan* likewise had his honour there, and a Temple, of which [h] *Demosthenes*, where was one of the *Athenian* prisons; some controversies in law in it decided, as I gather out of [i] *Demosthenes*. *Neptune* was an ancient Patron of this City, which he loved even to strife. He was feared for security in navigation; hence [k] Ἀσφάλειος. [l] *Mars* also had his worship, and Temple, and *Hercules* too, who in a dreame appeared to *Sophocles*, revealing unto him the sacriledge of one who had stolen a golden cup out of his Temple, called therefore Μαυλὶς or *Index Herculis*, as [m] *Tully*. Neither

[f] Paus. p. 16. l. 32.

[g] Aristop. πλ. p. 61.

[h] P. 536. n. 26.

[i] παρασ. περὶς Ἀπατ.

[k] Aristop. p. p. 403.

[l] Paus. p. 7. l. 27.

[m] De divinatione, l. 1.

Neither were they contented with such a quantity, but canonized more daily, as the sonnes of *Tyndarus*, [a] *Castor* and *Pollux*, naming them ἄνακτες. [a] ἀνακὼς γὰρ ἔχειν τὸν ὀπαδεῖν ἢ φυλάττοντας ὅπως καὶ τοὺς βασιλῆς ἴσως αἰτίους δὲ τοῦτο καλοῦσιν. For they who have a care and watch of any thing doe diligently observe it ἀνακὼς ἔχειν. for which Kings perhaps are called ἄνακτες, as keepers of their people. [b] The Scholiast of *Euripides* teaches us that ἄναξ properly signifieth a Saviour. So *Pan* is said to be Ανακ Κυλλήνης, *the Tutelar God of Cyllene.* And *Apollo* in [c] *Homer.* ἀγίους ἴφι ἀνάσσων. The word is simply put for God in [d] *Aristophanes*, [e] τοῦ ὑπὸ Διὸς Ανακλος καὶ Σωτῆρος Καλύμβου. To these may be put *Harmodius* and *Aristogiton. Lycus. Theseus. Alon. Hesychus. Aristomachus* the Physitian. *Celeus* and *Metanira.* And many more (of whom see [f] *Meursius*) made of men, as *Silanion* and *Parrhasius* that made the statue of [g] *Theseus.*

[a] Plut. Thes. p. 11. l. 25.
[b] In Hippol. p. 507.
[c] Iliad. a.
[d] In Avib. pag. 578.
[e] Eurip. Sch. p. 507.
[f] In Athen. Att. l. 3. c. 1. & 7
[g] Plut. in Th. p. 2. l. 4.

CAP. IV.

De Minerva, Cerere & Proserpina, Baccho, Venere, Eumenidibus, Hecate, Junone, Prometheo, &c.

Minerva the especiall deitie of the *Athenians*, had the Festivals called *Panathenea*, of which you may fully read in [h] *Meursius.* Next to her *Ceres* and *Proserpina*, whose rites *longe maximis & occultissimis cerimoniis continentur*, [i] saies *Cicero*, were greatest and most hidden; therefore called *mysteria* from [k] μυεῖσθαι, to hide; [l] death and a curse lying on him who should disclose their abominable secrets. See *Meursius* in his [m] *Eleusinia*, of the initiation into these shews. They were of two sorts. [n] Greater to *Ceres*, lesse to *Proserpina. Bacchus* also the sonne of *Ceres* had his Temple allotted and a double tide holy to him. *Dionysia* [o] *parva* and [p] *Magna.* *Venus* had her honour and sacrifice, in which they offered to her [q] money the price of an whore. [r] *Eumenides* were first adored

[h] In Panath.
[i] In Verrem. 5.
[k] Nonnus ad Naz. Cyl.
[l] Vide Plut. in Alcib.
[m] Cap. 7.
[n] Aristop. Sch. p. 85.
[o] Arist. p. 222.
[p] Idem p. 123.
[q] Clem. Alex. p. 19.
[r] Vide Æsch. in Eumen. & Sch. Sophan. Oed. Col.

dored by *Oreſtes* after he eſcaped the *Judgement* at *Athens* in *Areopagus* for killing his mother *Clytemneſtra*. Theſe by [a] *Heſiod* are called *Erinnyes*, by the *Athenians* Σεμναὶ Θεαὶ, the venerable Goddeſſes. To theſe they offered drinke offerings without wine though at mid-night, a cuſtome peculiar to them alone, as *Æſchylus* witneſſeth, though I am not ignorant that [d] *Bacchus* his feaſts were kept in the night, whence he is called *Nyctelius*. But the Tragedian.

[a] In Theogonia.
[b] Pauſ. p. 27. l. 3
[c] In Eumen. p. 375.
[d] Ariſtop. p. 228.
[e] Loco citato.

[e] ἢ γυνὶ σεμνὰ δέπαστα ἐπ' ἐχάρα πυρὸς
Ἔθυον ὥραν ὑδρηνὸς κοτύλῳ Θεῶν.

Scholiaſt: ἐν γὰρ τῇ μετὰ νυκτὸς μόναις ἐπιτυθύειν ἀπῆρχον. By [f] *Sophocles* the manner of oblation is ſet downe. Firſt having cleane hands and pure, the worſhipper ought to draw out of a running fountain water, and having filled three cups with water and honey (hence tearmed [g] μελίσπατα μειλίσματα) the mouthes and ears of which are to be covered with the wool of a young ſheep, turning himſelf towards the Eaſt, he powred out ſome of two of them, but the third wholy; then with both hands ſetting thrice nine branches of Olive on the place where he caſt his χοὰς, he uttered his conceived ſupplications. Other ſacrifices they had as ſhall bee ſhortly ſpoken.

[f] In Oedipo. Col. p. 271.
[g] Æſchylus loco præd.

[h] *Hecate* was worſhipped by them in *triviis*, where three wayes met, ſuppoſed to be the Moone in heaven, *Diana* on earth, and *Hecate* below. [i] To her the richer ſort every new Moone made a feaſt in the croſſe waies, ſetting bread and other proviſion, which the poore greedily fed on, and were ſo ravenous after, that [k] *Penia* in *Ariſtophanes* complaines, that they ſnatcht it before it could be laid downe. Reference to this hath Ἑκαταῖα κατεδίων, to eat the cates of *Hecate*, in *Demoſthenes*, which he ſeems to object, as a ſordid or wicked thing. Indeed βωμολόχος, which ſignifies one that privily taketh away any of the ſacrifices from the Altar, imports ſomtimes *impious*. Βωμολόχος ἀσεβὴς. *Schol.* * *Ariſtoph.* And yet the ſame Scholiaſt tels us that the needy ſuſtained themſelves by the ſacrifices, [m] ἀπὸ τῶν ἱερῶν οἱ πένητες ζῶσιν. *Funeus* rites

[h] Vide Interp. Hor. in illud Diva triformis
[i] Ariſtoph. Sch. p. 63.
[k] Pag. 64.
[l] In Oat. οἰκίας κόπωνα. p. 693. n. 59.
* In Nubes p. 176.
[m] In Plut. 63.

were

were performed in great pomp with haire over their ſhoulders and down the back, in a veſture that ſwept the ground, their armes bedecked with glorious bracelets, their paces ſo minced, that [a] Ἡσυχίου βαδίζειν, *Junoninum incedere*, is to go ſtately. *Prometheus* was worſhipped in a kinde of Torch-dance, or running with links or lamps, it may be in memoriall of the fire, which ſuperſtitiouſly they beleeved him to have ſtolne out of heaven. To ſay more of their Gods were needleſſe, either for you to read, or me to write. More they had, among whom *Pan* was of a latter making, introducted by [b] *Philippides*, and * Σφραγῖτιδες Νύμφαι. *Sphragitides Nymphæ*, after the *Perſian* overthrow.

[a] Vide Shottum in Proverb. Iſaacum Caſaub. in Athen. l. 12. c. 5. p. 388.

[b] Cl. Alex. p. 22

[*] Plut. Ariſt. p. 240. l. 30.

CAP. V.

Θεοὶ Ἀνδήλιοι. Ἐγμαί. *Phacaſiani Dii.*

THE *Athenians* before their dores erected ſtatues which they called [c] θυραιθύλακες, becauſe they were expoſed to the Sunne. Neither had they theſe alone, but certaine others ſacred to *Mercury*, named from *Hermes Herma*, *Mercurials*. The faſhion of them was divers. For firſt they were not αἰατητρυφοὶ, *porrecto veretro*, but made after to that forme by the *Athenians*, who received it from the *Pelaſgi*, as [d] *Herodotus*. Neither did they want legs, untill the *Athenians* made them ἀκρόλιθοι, according to [e] *Pauſanias*. The manner was this, *A face of Mercury ſet upon a pillar of foure corners*. The head only and neck were ſhapen, and therefore it was called *truncus Hermes*, [f] *Juvenal*,

Nil niſi Cecropides, truncoq́ ſimillimus Herma.
Nullo quippe alio vincis diſcrimine, quam quod
Illi marmoreum caput eſt, tua vivit imago.

For which reaſon likewiſe the *Greeks* name them [g] ἀγυιὰς, without limbs. On the lower part of them were certain verſes engraven, containing the praiſes of ſome well deſerving

[c] Vide Heſychium & Dionyſium Periegetam in Themiſtium.

[d] In Euterp. p. 48.

[e] In Atticis p. 22. l. 14.

[f] Sat. 8. v. 52.

[g] Vide Ulpian. in Dem. p. 332. & G. Langbaine in Notis ad Longinum. περὶ ὕψους.

men; but the *Herma* on which they wrote the exploits of those that had merited, seeme to me to have beene set up in that gallery, which from the number of these images was commonly knowne by Ἑρμῶν Στοά the gallery of *Mercurials*. At the consecration of these they used some ceremonies, and sacrificed a kinde of gruell, which was of no great preparation; because they would not stand about it. Hence χύτραις ἱδρύεσθαι may be said to sacrifice with that which costs but little. [a] *Aristophanes.* Χύτρασιν, ὥσπερ μεμεδύμνιον Ἑρμίδιον; *Schol.* Ἑρμίδιον, ἀπὸ τῆς εὐτελείας. *in Pace.* Now to the erecting of their Images it will not be unseasonable to adde something of the forme of their Gods, whom they made standing with their hands upward, as if they were more willing to receive then bestow any thing. To which [b] *Aristophanes* alludes, saying,---καὶ γὰρ Θεοί. Γνώσει δ' ἀπὸ τῶν χειρῶν τε καὶ ἀσθμάτων. Ὅταν γὰρ εὐχώμεθα διδόναι τἀγαθά. Ἔσχαν ἐκλείνουσι πρὸς χεῖρ' ἀστίαν. Οὐχ ὡς πιόντες' ἀλλ' ὅπως τι λήψομεν. *Even the Gods you shall know by their hands and statues. For when we pray them to give us some good thing, they stand with their hands upward, as if they would send downe nothing, but rather take oblation.* To tell you likewise that these Idols were clothed, is no newes doubtlesse to one meanly versed in the Greeke antiquities. To say that they weare shooes too, is probable, whence they are named *Dii Phacasiani*, from φακασία, a kind of low shoos which the *Athenians* called κοπρόδας, from κόπρος, dust, and πούς, the foot, because they were neare the ground. διὰ τὸ πελάζειν μοι δοκεῖν τῇ κόνει τὸ πόδε, saies [c] *Clemens Alexandrinus.* But more sure I am that they were pictured with them on their feet. [d] *Juvenal.*

Hic aliquid præclarum Euphranoris & Polycleti
Phacasianorum vetera ornamenta Deorum.

a Pag. 693.

b Concion. p. 747.

c Pæd. l. 2. c. 11 p. 152.

d Sat. 3. v. 217.

CAP.

CAP. VI.

De Superstitione Atheniensium, & vaticiniis.

LOng since were the *Athenians* taxed by the Apostle for superstition, which though it properly signifies [a] a worshipping of the Gods too much, yet under it these follies are comprehended. Purification after fearfull dreames, in [b] *Aristophanes* ὄνειρον ἀποκλύζειν. In which sense some understand *Persius. Noctem flumine purgare.* Wearing of rings against witchcraft as a spell, called [c] δακτυλίους φαρμακίτας. [d] Spitting into their bosomes thrice at the sight of a mad man, or one troubled with an *Epilepsie.* Of which also *Theocritus*, τρὶς εἰς ἐμὸν ἔπτυσα κόλπον. I know not whether the custome of our silly people have reference to this foppery, who use to spit at the naming of the Divell. Certaine it is that anciently they did spit in defiance, hence πτύειν is put for καταφρονεῖν and ἐν ὕδατι λόγῳ θέμα to contemne or set little by, as the [f] Scholiast of *Sophocles* on these words, πτύσας ὡσεὶ δυσιδῆ. Washing with water the head as often as hee shall goe into the streets κεφαλῆς λύσασαν, [g] *Theophrastus.* Anointing of stones, divers it seemes from those heaps sacred to *Mercury*, termed Ἑρμάκες. This hath beene of old. Done indeed as a token of thankfulnesse by [h] *Jacob* in *Bethel*, where he tooke the stone that he put for his pillows, and set it up, and powred oyle on the top of it in his journey to *Padan Aram.* Hennes crowing, the bold entrance of a blacke dog into their houses, Serpents seene ἐν τῇ οἰκίᾳ, saies *Theophrastus*, of which [i] *Terence. Introiit in ædes ater alienus canis. Anguis per impluvium decidit de tegulis. Gallina cecinit.* Put to these a [k] Cat or Weesell (the word signifieth both) crossing his way, the Mouse eating his salt bag. Not unlike them now adaies, whose clothes the Rats or Mice shall chance to eat, deemed not long after like to live by our ignorant, or that he shall have great ill betide him.

[a] Donat. in Ter. p. 67.
[b] Ranis p.274. vide & Æsch. in Persis.
[c] Aristop. Pl. p.88.f.
[d] Theoph. Ch. p.49.
[f] Antigonen.
[g] Charact.
[h] Gen.28. 18.
[i] In Phor. Ac.4.Sc.4.
[k] γαλῆ. Theoph.

him. Adde the avoiding of obſequies for feare of pollution. Antiquity was of opinion that ſacred perſons were defiled with the ſight of the dead, as *Chemnitius* hath obſerved, and [a] *Euripides* brings *Diana* ſpeaking, that it is not lawfull for her to behold dying *Hippolytus*; nay the ſtanding upon a grave was a great religion; ἔστιν ἐπὶ μνήμασι. Furthermore obſerving of daies good & bad, of which [b] *Heſiod*, ἄλλη μητρυιὰ, ἄλλη δὲ μήτηρ, that one is a ſtepdame, another a mother. [c] Amazement at the Eclipſe of the Sun, as alſo the [d] Moone; not knowing the reaſon, why ſhe did loſe her light at that time, when ſhe was in her full luſtre. Buying of Medicines or enchanted ſtones for the quicker delivery in child-birth, in *Ariſtophanes*, ὠχυτόκια ὠνιαίμβους. Of the vertue I ſpeake nought. [e] *Boemus* relates that in *Darien* in *America* the women eat an hearb when they are great with child which makes them to bring forth without paine. Joyn to this the ſneezing over the right-ſhoulder, or the right ſide, [f] πταρμὸς ἐκ δεξιῶν. Obſervation of Διοσημίαις, or ſudden ſtorms, as the [g] *Sch.* of *Ariſtophanes* interprets it, ſnow, haile, or the like. [h] Cutting off their haire, and ſacrificing it to rivers, as *Cephiſſus*. Marking the flight of the owle, whence came the proverb, [i] γλαῦξ ἵπταται, *The Owle hath fled.* And γλαυξὶ ἵπτατ' for good lucke, the Owle being a token of victory to the *Athenians*, [k] ἡ πόλις τὴν γλαῦκα τὴν σύμβολον τοῦ Ἀθηναίοις ἐνομίζετο. They ever accounting it ſo ſince the warre at *Salamis*, where the *Greeks* ſeeing an Owle, took courage and beat the *Barbarians*. *Appendix Vaticana*, ἐν Σαλαμῖνι δὲ τῶν Ἑλλήνων θαρρήσαντες ἐνίκησαν. Other madneſſe of theirs was ſleeping in the [l] Temple of *Æſculapius*, who were ill at eaſe, ſuppoſing the deity to give, or ſhew them a remedy, [m] for which in gratulation they were wont to offer him a cock. If I miſtake not. What ſhall I ſay of [n] putting him to death who ſhould cut downe an Oake or an Holme (ſo *Ilex* which in Greek is πρῖνος may be taken, I thinke it an Holme) in the *Heroum*; And puniſhing *Atarbes* capitally who being diſtra-

[a] In Hip. p. 603. vide etiã Euſtath. in Ιλ. π.
[b] ἐν ἔργοις καὶ ἡμ.
[c] Plut Pericle p. 123. l. 35.
[d] Plut. Nicia. p. 392. l. 21.
[e] Lib. 4. c. 11.
[f] Plut. Them. p. 85. l. 23.
[g] In Ach. p. 379. & p. 424.
[h] Pauſ. Att. p. 35. l. 31. vide Euſt. in Il. B.
[i] Ariſtop. Veſp. ſ. p. 508.
[k] Zenobius.
[l] Ariſtop. pp. 44. 66. T. 438.
[m] Petronius.
[n] Ælian. ποικ. l. 5. c. 17.

ted had ſlaine a ſparrow ſacred to *Æſculapius*? Thus far have we gone. Let us proceed to their vaticinations or prophecyings. *Æſchylus* brings *Prometheus* on the ſtage, vaunting how firſt he taught men * Ονειροκριτικόν· Οιωνιστικόν· Ηπατικόν· Θυτικόν. All which were practiſed among the *Athenians*, as you may read in [a] *Xenophon*. Ονειροκριτικὸν, *the interpretation of dreams*, is a reſolution of thoſe doubts which we conceive of things offered to our fancie in ſleep, as that of *Hecuba* dreaming that ſhe ſhould bring forth a firebrand; and that of *Atoſſa* before the fall of her ſonne *Xerxes*, whom ſhee ſaw ſtriving to yoke the *Barbarian* and *Greeke* woman, one of which overthrew him. This the Ancients tearmed ἐνύπνιον ἰδεῖν, *Æſchylus*, aſcribing much to the truth of them, ſuppoſing them to be ſent from a Deitie--ᾗ γὰρ ὄναρ ἐκ Διὸς ὄξυν. [b] *Homer*. The skill in them is ἐξ ὀνείρατα ἃ χρὴ παρ' ἠμὲν ἰδεῖν, κληδόνας τε δυσκρίτους (γνωρίζειν) to truly tell the event; which was no ſmall art, certaine bookes written of that ſubject. [d] εἰσὶν ἔγγραφοί τινες πίνακες ὀνειροκριτικοὶ, as *Artemidorus* his *Onirocritica*. Οιωνιστικὸν, *Soothſaying by birds* when ſuch or ſuch flie either before or behinde him, at the right or left hand, to ſhew what it doth prognoſticate. [c] *Æſchylus*, Γαμψωνύχων τε πτῆσιν οἰωνῶν σκεθρῶς διώρισε· εἰ τινὲς δ' ἕξιοὶ φύσιν, εὐώνυμοί τε, ᾗ δι' ἄστυ λῷπα ἔχουσ' ἕκαστοι, ᾗ πρὸς ἀλλήλους τίνες ἔχθρα τ' ᾗ στέρησθε ᾗ σωτηρία. It was formerly ſtiled, [f] ὀιωνοϊστικὴ, ἀπὸ τῶν διανοίας περιζομένων ἀνθρωπίνη ὑπόνοια σημείων) which the minde doth ſuggeſt to the opinion. It is put for any divination in Greek writers, but moſt properly ὀρνεοσκοπικὸν, which [g] *Telegonus* is related to have found according to *Nonnus*, but according to [h] *Plinie*, *Car*, whence it is called *Caria*, Ηπατικὸν, looking into the Liver or entralls, like the Latines *extiſpicium*, obſerving the colour of them, [i] λοβοῦ τε ποικίλιον εὐμορφίαν; as likewiſe the foundneſſe, hence taken as a prodigie λοβὸς οὐκ ἔχων κεφαλὴν, in [k] *Plutarch*, the extremitie of the liver (like the outmoſt parts of the vine leafe, ſaies *Iſidor*) not to be ſeen, or rather that which they call the head,

* Vide Sch. pag. 2.

a Απομνημ. a. initio.

b Iliad. 1.

c Æſch. Pro. P. 33.

d Euſt. in Il a. p. 36.

e Pag. 33.

f Ariſtides. T. 3. p. 25.

g Nonnus. Διωαγ. l. 5. a. οβ.

h Nat. hiſt. l. 7. c. 56.

i Æſch. loco citato.

k Pag. 357. l. 31.

Ovid,Caſumq; caput reperitur in extis. Θυπικὸν, in marking the flame of the ſacrifice burnt, [a] φλογωπὰ σήματα, the Tragœdian calls them,by which they could foretell events.More doubtleſſe had they wayes of witchcraft,as the other Greeks. Ἐνόδιον,as when one ſhall meet you carrying ſuch or ſuch things then this ſhall befall you. *Æſchylus* termes them ἐνοδίους συμβόλους *Sch.* τοῦ ἐξυπωπήσεως. See *Scaliger* in *Tibullum*, on theſe words *Puer è triviis.* The Scholiaſt of [b] *Ariſtophanes* on ξύμβολον ἔχειν, They made, quoth he, whom they met firſt as it were tokens of good hap.Whence it may be came up the ſalutation, which [c] *Sophocles* calls εὐφήμισμα φέρειν, wiſhing luck, as χαῖρε among the Greeks,and the Latines [d] *Eſto bonis avibus viſus &c.* Σύμβολον is put likewiſe for ſneeſing, or the conjecturing at them. *Sternutamentum* being accounted a Deitie by the Romans,but ſacred to [e] *Ceres*,as the Greeks, whence proceeded that Ζήσειας, which wee imitate in our God help you,as often as we ſee any man ſo purging his head. Which not to have proceeded from any deadly diſeaſe,is ſufficiently evinced by *Caſaubon* on *Athenæus.* Οἰκοσκοπικὸν, at the ſight of a Mouſe,Serpent,Cat,or the like in the houſe, or when the oyle cruſe is dry,hony,wine, water is ſpent, to gueſſe at future things. Of this [f] *Xenocrates* wrote. Χειροσκοπικὸν Palmiſtrie, when by the length of the hand,or lines of the table,they can judge of freeneſſe in houſekeeping,of mariage & poſterity,of which [g] *Helenus* once left a monument. Πλημνιστικὸν, gathered out of the ſhaking of the parts of the body as the ſhoulder,thigh,or right eye,in which kinde *Poſidonius* was an author expoſed to the world. Ἐγγαστριμυθία, as that wherein the *Witch of Endor* was experienced,out of the lower parts of whoſe belly the Divell ſpake. The firſt that practiſed this among the *Athenians* was *Euryoles*; hence they who are poſſeſſed with this ſpirit of prophecying are called Εὐρυκλεῖς, *Euryclitæ*,as the [h] *Schol.* of *Ariſtoph.* who calls this art [i] Εὐρυκλέους μαντεία. *the divining of Eurycles.* Νεκυομαντεῖα, where after ſolemn ſacrifices they were wont to call up the ſoules

[a] Æſch. loco citato.

[b] In Au. p. 574

[c] In Oed. Tyr. initio.

[d] Ovid. Faſt.

[e] Sch. Ariſtoph. loco citato.

[f] Nonnus in Naz.

[g] Nonnus.

[h] In Veſp. pag. 503.

[i] Ib 502.

ſoules of the deceaſed, demanding of them what afterward ſhould befall. As [a] *Wierus*. And no wonder, for they held the ſpirits of their parents and kindred for Gods, *quibus ſacrificabant* (ſaies *Bodin*) *& ad quorum ſepulchra comedebant, in quos ſcriptura invehens ac deteſtans, inquit, & comederunt ſacrificia mortuorum*, to which they ſacrificed, and at whoſe ſepulchres they fed, againſt whom the Scripture inveyghing & deteſting ſpeaketh, *And they ate the oblations of the dead.* Of this [c] *Ariſtophanes* makes mention, and [d] *Homer* in his *Odyſſes*. This is that which moſt properly is called γοητεία from γόος lamentation; by *Wierus* termed *dira execrationes*, [e] for with great mourning they invocated κακοποιὸς δαίμονας, wicked gods for the accompliſhment of their diveliſh deſignes. It may moſt fitly have the name of *Nigra Magia*, [f] for ſo the Wizards divide them into the blacke and white Magicke. Μαγεία, from whence the word Magicke is derived ſeems to have beene found by the [g] *Medes* and *Perſians*, whoſe Prieſts were called *Magi*, great Philoſophers as [h] *Laertius* is witneſſe. This is ſuppoſed to be the good Magick. [i] Ἐπικλησὶς δαιμόνων ἀγαθοποιῶν, πρὸς ἀγαθῆ πύησιν φαρμακεία, is a giving of *philtrum*, a medicine for the procurement of love, or rather enraging of luſt, by bewitching ſomething and giving it to be eaten; which to have power over ſwine is credibly reported. Κοσκινομαντεία. Tricks with a paire of ſheers and ſive, of which *Theocritus*. [k] Ἀξινομαντεία. To take councell of an hatchet, taking it & laying it on a piece of timber flatwaies, which did the feat by turning round. Like to which is that naughty uſe of a key and Bible. Ἀστραγαλομαντεία, by the caſting of the dice to aske the number of wives, children, farmes, &c. which anſwer to the quantity of the chance. [l] Ἀλφιτομαντεία & Ἀλφιτομαντεία, done by corne, [m] Ἀριθμομαντεία, by taking the letters of the name, as when two were to fight, and by the value of them to judge the conqueſt; As they ſaid of *Hectors* being overcome by *Achilles*. Ὀρνιθομαντεία, making a circle they divided it into four and twenty parts,

[a] De magis Inſt. l. 2. c. 11.
[b] Dæmonomaniæ l. 2 c. 3.
[c] In Avib. P. 613. a.
[d] Lib. λ.
[e] Nonn. in Naz.
[f] Vide Bodin.
[g] Vide Non.
[h] In Proœm.
[i] Nonnus.
[k] Vide Odyſ.
[l] Vide Theocrit in Phar.
[m] Delrio Diſqui. Mag. l. 4. c. 2. q. 5. ſec. 7.

and on each part made a letter, and putting wheat upon the letters they brought in a Cock, and obſerving from what letters he tooke up the grain, they at laſt joyned them together, and ſo knew their ſucceſſors, husbands, &c. Σποτχερομαντία, opening a book of *Homer*, and by the firſt verſe that they lighted upon to divine, as that of the death of *Socrates*, who ſo foretold it, meeting with that verſe of *Homer*, which ſpeakes of the arrivall of *Achilles* within three dayes at *Theſſaly*. [a] *Et quoniam poemata provaticiniis, &c.* and becauſe poems were accounted prophecies, as Poets Prophets, they were moſt buſie in them. Hence in publique cauſes had the Romans recourſe to the *Sibylline Oracles*, & the private Grecians to the verſes of *Homer*. And that *Sors* was put for the writing of Oracles, is manifeſt out of the words, *Sortes Delphicæ*, for foretelling or divination. [b] I know the ſhe Prieſt of *Apollo* being inſpired with a kinde of holy fury ſpake to thoſe who asked counſell. Whence the word [c] μαντικὴ at this time read for Soothſaying, was anciently called μαντικὴ madneſſe. And yet that their cunning men had a kind of lottery, is as clear as day, the [d] Scholiaſt of *Euripides* teſtifying; done it ſeems in matters of queſtion, ſo κλῆρον δὶ χέδυ may intimate as much as to undergoe triall. Predictions there were, [e] ſaith *Euſtath.* out of ſignes and wonders, as alſo of the noiſe that leaves make when they are burned. To which ſome adde ἀεροματία or divination by the ayre, quoting for it *Ariſtophanes* in *Nubibus*, which I now remember not.

[a] Wier. de magis Inf. l. 2. c. 13.

[b] Vide Sch. Ariſt. in Plut.

[c] Ariſtid. T. 3. pag. 25.

[d] In Hippol. p. 580.

[e] In Il. a. p. 6.

CAP. VII.

De Templis & Aſylis.

THeir Churches were of two ſorts; ſacred to their Gods in Greek, νεὼς or ἱερὸν. And ſacred to their Demi-gods moſt properly οὐκοὶ. But the word is promiſcuouſly uſed by the Tragedians. *Clemens Alexandrinus* is of opinon that the firſt

first originall of their Temples was the erecting of an edifice to the honour of the deceased [a] νεὼς γὰρ εὑρήσεως ὀνομαζομένους, τάφους δὲ θησαυρούς, τυτέστι τοὺς τάφους νεοὺς ὀπτικαλουμένους. *Cecrops* buried in the *Acropolis*, *Erichthonius* in the Temple of *Minerva*, *Polias*, the daughter of *Celeus* in *Eleusis*, &c. They were divided into two parts, the sacred and prophane, this called ἔξω περιῤῥαντήριον the other ἔσω. [b] *Casaubon* tells us that περιῤῥαντήριον was that holy water set at the dore of the Temple, with which every one that entred into the Temple besprinkled himselfe, or was besprinkled by those that sacrificed; of which in the next Chapter. But others have written that it stood at the entrance of the *Adytum*, in which it was not lawfull for any but the Priests to come. The [c] Schol. of *Sophocles* thus describes the Church. Ναὸς, quoth hee, is the place where the Altar stands. Βωμὸς the Altar on which they offered their oblations, Τέμενος, where they placed the Idoll which they worshipped; in ancient time a rude table or stock [d] σανὶς *Clemens Alexandrinus* calls it, as that of *Juno Samia*, afterward made in the Magistracy of *Procles* to be a statue. At first named [e] ξόανα, διὰ τὸ ἐξεῖσθαι ἀπὸ ὕλης, from the shaving of it; but when art began to bee so expert to make it resemble a man, they termed it βρέτας, from βροτὸς *mortalis*, whose shape it bare. At the setting up thereof they used these ceremonies. That a woman neatly trimmed and deckt in a purple vesture should bring on her head a pot of sodden pulse as beanes, pease, and the like, which they sacrificed in thankfulnesse for their first food [f] εὐχαριστήρια ἀποτίνοντες τῆς πρώτης διαίτης. For as much as I conceive out of *Pollux*, this was consecrated, or did divine honors, but in the ἱερὸν or ναῶς, the body of the Church, framing, as may bee gathered, their gesture towards it. [g] Αὐτὰ δὲ τὰ περιῤῥαντήρια, ἀγάλματα, ξόανα, ἕδη θεῶν, &c. Furthermore belonging to their Temples there was a kinde of Vestry, in Greek Ἀρχεῖον by some translated *summum templum*, as if it were at the upper end. This seemes to have been a Treasury both for the Church, and any-

a Vide p. 22.

b In Theop. Charact.

c In Oed. Tyrannum.

d Protreptice p. 23.

e Idem.

f Schol. Arist. p. 115.

g Lib. 1. c. 1. pag. 7.

any soever, who fearing the security of his wealth would commit it to the custody of the Priest, as [a] *Xenophon* is reported to have done at the Temple of *Diana* in *Ephesus*. *Martial* points at this, when he saies,

Templa vel arcano demens spoliaverat auro.

So reverently did they esteem of these houses of their gods, that to do those offices of nature, I meane venting of excrements too shamelesly seen among us, in the Church-yards, as I may call them, was an abomination; punished severely by *Pisistratus*. For when he had taken tribute of all that the *Attick* ground had brought forth, they so hated him for that taxation as they made the βέρεθρα of the Temple of *Apollo Pythius* a Jakes; which although forbidden never was redressed. And yet so secretly was it done, that he could apprehend none save at last one stranger, whom he caused to be whipt, with this Proclamation, THAT BECAUSE HE CONTEMNED THE EDICT HE SHOULD DIE. Hence to a man that soundly smarted for his wickednesse, they were wont proverbially to say, *He had better have eased himselfe in the Pytheum*, or if there were more, in the plurall number. Κρεῖττον ἦν αὐτοῖς ἐν τοῖς Πυθίοις ἀποκαθῆσθαι. Nay so honourable held they these Churches that to them they granted priviledge of *Sanctuary*, to which who should fly, might not from thence bee drawne out under a trespasse upon religion. Of this kinde was the Temple of *Minerva*, and *Theseus*, the Altars of the *Eumenides*, and *Mercy*, [b] whose image they would not have erected any where in their City, although in the midst thereof she had a Grove. [c] The first *Asylum* among the Heathens is held to have beene in *Athens*, built by the *Heraclidæ*.

[a] Laertius in vita. p. 122. vide ad eum locum Cas.

[b] Vid. Rosin.

[c] Polyd. Virg. in Eurip. they are presented setting near the Altar. T. 2. p. 472.

CAP.

CAP. VIII.

De Sacerdotiis.

OF holy orders among them I conceive to have been divers sorts, Παράσιτοι, *Parasiti*, a word had in latter times in great derision, exagitated almost in every Comedy, put for a shark or smell-feast,[a] *Edax Parasitus*. But held once in good esteem. For when they had set aside such a parcell of land as they thought the revenews thereof would suffice for the sacrifices of such and such Gods, they chose certain men who should receive or gather the harvest.[b] *Crates*, ὃι ὅτι πλὼ τῶ ἱερῶ σίτυ ἐκλογὼ αἱρέωθοι. With the incomes of this were the charges of those publique sacrifices defraied. Hence μεγάλα μεγάλα *Introitus magni*, great yearly substance, is used for great sacrifice in[c] *Aristophanes*. Scholiast. ὅτω ἦλεγον τὰς μεγαλομόρας τῆς θεοῖς θυσίας. Κήρυκες. *Ceryces*, the same signifies a cride, but in sacred functions a Minister, who slew and offered the *victim*.[d] *Anthenio* the Comœdian ascribes much honour to them, as if they had first taught men to eeth victuals, the flesh of sheep and oxen, while before they devoured each other raw. They take their names from[e] *Cerix* the sonne of *Mercury* and *Pandrosus*. But[f] *Casaubon*, ἀπὸ τῶ Κρείττονος. *A præstantiore parte numeris quod obibant, sic dicti. Idem namq; & hostias mactabant, odolebantq;, &c.* They in the time of divine rites craved the silence of the people in these words, Εὐφημεῖτε. Σιγᾶ πᾶς ἵσω λαός. Be whist all yee people. Good words, for so[g] εὐφημεῖν signifies, as well as to say nought, which *Horace* fitly interprets when he sayes, *Male ominatis Parcite verbis*. When sacrifice was ended they dismissed the congregation with these words λαῶν ἄφεσις. To which custome he unfitly looked who derived the Masse from *Missa est, ite*, better fetcht in my minde by[h] *Wechelius* from *Masath* the Hebrew which availes as much as to praise. Μυσταγωγοὶ, the same

a Terent.

b Secund. Att. Dialecti. apud Athen. p. 235.

c Avib. p. 581.

d Apud Ath. l. 14 p. 661.

e Vide Salm. in Inscripti. Pollucem l. 8.

f In Athen. lib. 15. c. 23.

g Casaub. in Theophrast. p. 321.

h In lib. quem scripsit de Sacrament.

same with [a] Ἱεροφάντης, who intiated them who desired to bee admitted into the society of the superstitiously zealous (who after they were entred, were not under a yeare compleat, permitted to see the Bible) [b] *Schol. Naz.* Ἱεροφάντης ὠνόμασται τὸ τὰ ἱερὰ ἐκφαίνειν. *Hierophanta* so called from ἐκφαίνειν τὰ ἱερά, opening the holy things. Εἰσὶ δὲ οἱ Ἱερουργοί. [c] The learned Bishop upon that place of *Nazianzene*, notes that *Moses* among the *Israelites* was an *Hierophanta*, shewing unto them what they were to do in those sacred businesses. Πυρφόροι, they who lighted the fire of the Altar, whose office made them safe in war and danger. Hence of bloody fight we say ὁ δὲ πυρφόρος, *Ne iguifer quidem*, there escaped not he that served at the Altar. Ἱεροποιοί, The Priests in the *Great Mysteries*, tenne in number. Νεωκόροι whom [d] *Nicander* calls ζάκοροι from [e] κορεῖν τὸ κοσμητίζειν, to bee decent, because they kept the Temples cleane and swept them as *Ion* in [f] *Euripides* speakes. These were the παρθένοι, whose charge it was to preserve that which was found in the Church, and to see that repaired which went to ruine, saies [g] *Aristotle*. And yet we read that the *Parasiti* did sometime look to the mending of it. There being a law enacted that what they laid out should be restored againe. Ἱερεῖς in [h] *Aristophanes* likewise termed θεόπολοι. These are the Priests ever waiting on the Gods, [i] whose praiers the ancients required at their sacrifices, out of which they had a fee; [k] the trotters and skinnes, as the [l] *Cercyes* the tongues. And indeed there was no necessity, for there being tables in their Temples, as *Casaubon* teaches us, whereon they might lay their oblations (and perhaps sometimes depart) of which the Priest according to his stomack did share. Well known to [m] *Aristop.* who relates the like of the Priest of *Æsculapius*. It was requisite to this function that they who undertook it should be sound both wind and limb, they being asked εἰ ἀφελεῖς before their creation, whether they were whole in every member; which ceremony to have beene used among holy orders of latter daies is well known, their neighbours

[a] Meursius Eleusin. in c. 13.
[b] In Stel. 1. p. 63.
[c] L. Mountac. of Chichester.
[d] In Alexaph. p. 144.
[e] Aristop. Sc. p 125.
[f] T. 2. p. 621.
[g] In politic.
[h] In Plut p 71
[i] Casaub. in Theoph.
[k] Arist. p. 481.
[l] Arist. p. 101.
[m] In Plut. p. 71

neighbours wives bearing record, saies [a] *Christianus*, that they have not taken into their societies *quid mutilum*. There were moreover shee Priests as the Βασίλαιναι, in *Demosthenes*, and the Καινόβιοι, whom in all things [b] *Dionysius Halicarnassens* compared to the vestall Nunnes.

[a] In Aristoph.

[b] Antiq.l.2. n.3.

CAP. IX.

De Sacrificiis.

THE father of Philosophie is of opinion that Sacrifices first began after the ancients had ended their harvest. For then being free from care, they found time for mirth and jollity. In which they offered their first fruits called ἀπαρχαί, from whence ἀπάρχεσθαι is read generally to do any sacrifice. Neither doth ἀγερσία import lesse. For [c] γέρσος signifies the bend, or great chest of the garnet, wherein they laid up the harvest threshed & winnowed; ἄγερσις, the first or beginning, as if when they began to treasure up their store, they first of all liberally paid some devotion to their Gods. The *Attick* oblations, even to *Draco*, were nothing else but the earth beneficence, but before *Solons* age burnt offering, who willed in his laws, that they should be ἐκκεκριμένα ἱερεῖα, chosen and selected [d] sacrifices. The rites performed in them were not different from those in the daies of *Homer*, but somewhat reformed. It behoved them that would take in hand these holy things to purifie themselves some certaine daies before, [d] τεσσαρακοντάωρον ἡμερῶν ἀειδῶν, the number of them is not set down. I take ἀγεσίδειν here to abstain from carnall delights, *Tibull.-Discedite ab aris Quos tulit hesterna gaudia nocte Venus.*) To which purpose *Theano* being asked when it might be lawfull for a woman, from the company of a man to go to sacrifice; answered, from her own at any time, but a stranger never. Being thus prepared they came and stood round the Altar, having with them a basket in which was the knife hid (covered

[c] Vide Schol. Eur. in Phæn. p.291.

[d] Plut. p.65. l.26. they called their leane sacrifices κέρατα καὶ χοῖρον hornes and haire, as if naught else, Arist. p.584.

[d] Demosth. pp.400.476.

with flower and salt, in [a] *Aristophanes* ὀλαὶ, in [b] *Homer* ἄλοχύ) with which they cut the throat of the *victime*. Then they purified the Altar going about it with the right hand towards it. [c] *Aristophanes* Περιὶδι ϑ βωμὸν ταχέως δεξιά. This lustration was made with meale and holy water sprinkled thereon. This water is called [d] χέρνιψ in which they quenched a firebrand taken from the Altar; with which they bedewed the standers by, accounting it a kinde of clensing, (Hence [e] χέρνιβας νέμειν was forbidden him whom they took for a polluted and forlorne rogue.) Then they cast some of the flower on them. And having thus expiated, they cried out, [f] Ἰὼ τῆδε; *Who is here*, to which they made reply, Πολλοὶ καλοὶ. Many and good. Then they praied. [g] *Homer*, Εξείης ἕστησαν εὐδμήτορ ἐπὶ βωμόν. Χερνίψαντο δ' ἕστησαν, ϗ ἄλοχύτας ἀνέλοντο, Τοῖσιν δ Κρύσπις μεγάλ' εὐχετο χεῖρας ἀνασχών. Among the latter they spake with a loud voice εὐχώμεϑα, before they began, *Let us pray*. Supplications ended they drew the victime so as (if it were to the Gods above) the head might looke upwards, which [h] *Homer*, αὖ ἐρύειν. *Eust.* εἰ μὲν τοῖς ἄνω ἔϑυον, ἀνακλᾶν ϑ τῦ ἱερείυ τράχηλον, ὥςε ἀφορᾶν, ὡς εἰς ϑ ἑαυτόν. If it were to the *Heroes* or Demi-gods, with his throat downwards. Then they slew him & skinned him, & cutting out the *huck shinbones and hanch, they covered them with fat, which is called κίων (hence the Gods of the heathen are deciphered by [i] *Nazianzen*, κίωσι χαίροντες, rejoycing in the fat) to the end that they might burne all out in a great flame. [k] ἵνα δὲ ἀπαυδὴ ὁλοκαυτωθῶσι τὸ μηρὸς λαμπρῷ καταφλεχθέντες πυρί. For the Grecians accounted it unluckie if it did not so consume, and thought that it was not κληδόνημα. upon the μηροὶ they cast small peeces of flesh cut from every part of the beast, beginning with the shoulder (which is in Greek ὦμος) hence this is called ὠμοϑεσίαι. The reason *Eustathius* gives, [l] ὡς δοκεῖν κατὰ πᾶν σαλεύειν, ὅλα ὕπω τὸ μέρη τῦ ἱερείυ καρπῶσϑαι, that they might seem to consume all, which the *Athenians* did not, being commanded by law to carry some of the sacrifice home. By reason

[a] In pace. p. 695.
[b] Ιλ. α. with these ἄλοχύτας the Greeks ever beganne sacrifice, the Romans Far. Dionys. Halic. l. 2. n. 4.
[c] Loco laud.
[d] Athen. l. 9. p. 409.
[e] Sophocles Oed. Tyr.
[f] Aristoph. p.
[g] Ιλιαδ. α.
[b] Ιλιαδ. α.
*Μηρία.
[i] In Stel.
[k] Eustath. p. 101. Ιλ.
[l] Loco laud.

reaſon of which injunction, they did ſo ſtrain curteſie of their gods, that the illiberall or nigardly ſort of people would ſell that which was left, and ſo make gaine of their devotion. [a] Τῶ μὴ ἱερεῖα πλὴν τῶν ἱρέων τὰ χρέα ἐπιδιδόναι, ſaies *Theophraſtus*; where [b] *Caſaubon* notes, *Coxam ferè offerebant, aut inteſtina, aut aliud non magna rei perſæpe.* They offered the hanch bone or the intralls, or ſomewhat of no great worth. Where by entralls you are to underſtand the ſpleene, the liver, and the heart, which *Homer* calls σπλάγχνα, for though the word be taken for the bowels, yet it ſignifies the heart too, in which ſenſe we ſay ἄσπλαγχνον ἀνὴρ, a puſillanimous man, & εὔσπλαγχνον a couragious, as the [c] Scholiaſt of *Sophocles* teaches us, & ſo σπλάγχνα ἐλάιας, the bowels of compaſſion. Theſe the ancients did divide among them at ſacrifice to feed on, and afterwards cut out the reſt to roſt. For whē they had finiſhed their devotions, they let the reins looſe to all manner of voluptuouſneſſe, gluttony, and drunkenneſſe. For oft-times they left nothing of their ſacrifice, eſpecially when they offered to *Veſta*, whence the proverb, Ἑστία σύειν, is to eat up all, like the Roman *Lari ſacrificare*. To ſay that publickly they begun to *Veſta* were more then I could well prove; but that they did ſo is plain. In their houſes they had Altars, and ſo I ſuppoſed once Ἀφ' Ἑστίας ἄρχεσθαι to be taken, but this was done in *Libaminibus*, in their drinke offerings, as he on [d] *Ariſtophanes*. As for their meat offerings it was required that they ſhould be [e] ſound and without blemiſh, whether it were an oxe, ſheep, goat, ſwine, calfe: to ſacrifice they ſimply termed ῥέζειν, which our Latines have interpreted fitly, *Facere*. [f] Virgil, *cum faciam vitula:* Whoſe poverty was ſo great that he could not afford a ſheep, or the like, they thought the Gods would be well pleaſed if he offered *Molas*, which the Greeks call [g] μυλήματα meale, which by the richer was mingled with oyle and wine, as the [h] Scholiaſt of *Ariſtoph.* The more wealthy inſtead of this did caſt frankincenſe on the Altars. For the ſacrifices of *Pallas* the tithes were ſet apart, as [i] *Demoſthenes*. In

[a] Th. Charac. περὶ Ἀγροικίας.
[b] Pag. 336.
[c] In Ajacem Lorarium.
[d] Vide p. 582.
[e] Vide Pollucem. l. 1.
[f] In Bucolicis.
[g] Caſaub. in Theop. p. 237.
[h] Pag. 701. D.
[i] Pag. 378.

their oblations the μάγειροι or cooks gave the *10 part to the *Prytanes*. So ἀδεκατεύτῳ κοιλία, put for ὀσία where the Gods cannot have their allowance. Schol. *Aristoph.* on ἀδεκατεύτες τῶν θεῶν ἱερὰς ἔχοντα κοιλίας. Εἶσος δ' εἶχον τὰς δεκάτας τῶν θυομένων τοῖς Πρυτάνεσιν οἱ μάγειροι λέγει. Νῦν δ' εἰσὶν ἀδεκατεύτου ἔχοντα ὀσίαν, &c.

a Schol. Arist. p.304.

CAP. X.

De Anno Attico.

THE ancient Greek yeare consisted of three hundred & sixtie daies, each month consisting of thirty. Rude antiquity ignorant of celestiall contemplations, deeming the Moon to finish her course in that space. Which according to *Petavius* seems false. *Lunaris enim non fuit, sed ejus menses tricenis diebus constabant singuli.* By which reckoning, had they not used intercalations, they had soone found a maine difference in the times, when they ought to have celebrated their festivals. They made therefore a *Tetraeteris*, in which when they found seven daies deficient, they supplied them by adding * 2 to every end of the year, called αὔραχοι ἡμέραι, *eò quod per illud biduum Athenæ Magistratibus carebant*, because for those two daies *Athens* was without Magistrates. But the last of these foure had but 359 daies, besides the two ὑπερβάλλουσαι, in respect to the Olympick games, ever kept in the *Olympick* games, ever kept in the * full Moone, which could not have happened, had they began the *Tetraeteris* with a new Moone. Nevertheless the Sunne and Moone appearing 14 daies oddes in a *Tetraeteris*, they made every eight yeare an interjection of one Moneth, that this time being ended, the course might still returne the same. This all *Greece* observed, saies *Petavius*, by the *Athenians* termed μυσίεια, by the people of *Etia* an *Olympiad*. What kinde of Lunary yeare was in use among the Grandsires of *Greece*, is not

b De Doct. Temp. l.1.c.1.

* Negat Petitus Miscel.l.8. p.192 Petav. affirmat.

c Mr. Selden in Apparat. ad Græco Epoch. Chro.

* *id est*, The fifteenth day

d De D. Tem. T.1.p.4.

not truly knowne; by [a] *Petitus* delivered to be of D:347. every Month 29D:except one, which like our February had but 28 D: Every two years one Moneth was inserted, once of 29 D: another time of 28 D:But because in two yeares this * *magnus annus* surpassed the Moon 15 D: *itaq; Tetraeterida fecerunt.* This consisted of 3445 D:723 & 722 make 1445. So many daies 354. foure times doubled hath, if you please to adjoyne 29. Of this sort of calculation doth he understand [c] *Geminus.* Τὰς μὲν τεσσαρεσκαιδεκήμερες ἦσαν, τὰς δὲ ἐμβολίμους παρ' ἐνιαυτόν. *That must be fitly understood,* quoth hee, *for they did number the Months as if they were* 30 D: *when notwithstanding they had but* 29. [d] *Petavius* is otherwise conceited, who takes the Scholiast of *Aristophanes* in that sense, as meaning 29 D: full ones, when indeed exactly taken according to [e] *Geminus* you may account 29. $\frac{1}{2}$. $\frac{1}{33}$. and [f] *Ulpian,* εἰκοσιεννέα καὶ ἥμισυ 29. . And yet are we not destitute of authority, that a Moneth was supputed 29 D. [g] *Theon.* Μῆνα δὲ λέγουσιν, τὸν ἀπὸ σωόδου Σελήνης καὶ Ἡλίου χρόνον ὅπου σωόδου; ὃς ὅστιν ἡμερῶν κθ. But that the fragments were left out, the words are plaine, Ἐπὶ δὲ τῶν πλείστων ζωοδόων ἡμέραν ἀκύει, τὸ ἐκ νυκτὸς καὶ ἡμέρας χρόνον. Τύτῳ δὲ τῷ μὴνὶ ἐχρῶντο φησὶ πάλιν τῷ πολιτικῶν ἡμερῶν διαγωγῷ καὶ νῦν ἔτι χρῶνται πολλοὶ τῶν Ἑλλήνων. *Hee meanes a day the space of a night and a day, for according to such Moneths did they administer their civill affaires. And now it is in request among many of the Greeks.* But of this enough. Soone was the *Tetraeteris* found faulty; therefore was made a Kalender of eight yeares, in which doubling eight times the difference of the Sunne, to wit, 11 D: $\frac{1}{4}$. made up three Moneths, inserted every third, fift, and eighth yeare. But the scruples comming short in sixteene yeares 3 D: they intercalated three. And seeing still they could not make it even, [s] *Euctemon* and *Philippus* made an Almanack for nineteen yeares, which by *Callippus* was produced to 76 Moneths 940. of them 28. ἐμβόλιμοι, τῇ δὲ τάξει τῇ ἐμβολίμων ὁμοίως ἐχρήσαντο, saies *Geminus.* This was the progresse of their reformation.

a Eclog. Chr. p.225. Petav. goes not so home. Lib. de Doct. Temp. 1.c 6.

* Each of these two yeares severally taken was called *vertens,* joyned *annus magnus.*

b Loco laud.

c Elem. Astro. c 8 p.36.

d In Auct. ro

e Loco citato

f In Arg. Orat contra And. p.380.

g In Arati Diosem. p.74.

h Geminus p. 38. Whom I follow. Not ignorant that *Meton* was the first that made the Cicle of 19. yeares. Hence Μέτωνος ἐνιαυτός. *Metons* year is put for a long time proverbially.

But we must look back again and consider that they counted their year two waies. First, of [a] CCCLX, as hath been already spoken, next CCCLIIII, when they made their months interchangeably πλήρεις καὶ κοίλους, *full and deficient*, that is, one 29, the other 30 dayes, yet both Lunary. For that is proved even by the names of their daies. The first, wherein the moon appeared new, called by a *Synalepha* or contradiction of the words νεμηνία. The second δευτέρα. The eight ἀγχημηνία, or halfe fall: the full πανσέληνος. The last τετράς, [b] ἀπ' αὐτῆς τῆς συμβαινούσης, because that in the dayes of *Thales Milesius*, [c] who was the author of that term, the month had 30, and no more, but ended: whence I suppose [d] αἱ ἐν ᾅδου τετράδες, signifie the dead, the period of whose life hath beene come to. Though *Diogenian* gives other reasons. And by the way we must not thinke, that they had no regard to the course of the Sunne; [e] *sed tamen ut annus fieret Solaris, &c.* But nevertheless that the yeare might be correspondent to the Sun, they put five daies, called [f] παγόμηνα epacted, to the last Month *Scirrophorion*, for the supplying of the defect. And so the yeare had 365 D: which was the true and just measure. But hee might have added, sometimes 366, by reason of that ¼ which *Geminus* acknowledges the Greeks to have reckoned, although they accounted their Months but 30 D. This is that *annus implicitus*, which [f] *Aratus* stiles μέσαι ἐνιαυτοῦ. To this point the Greeke Authors, telling the years by seed time. [g] *Sophocles*--Εἰλομένων Ἀρότων ἔτος ἕν ἔτος. For the ancients, saies [h] *Theon*, took the yeare three waies, either by the Sun, or seasons; as spring, summer, autumne, winter, [i] (*Sophocles.* Ἐξ ἧρος εἰς Ἀρκτοῦρον ἐμαλώνας χρόνους Χειμῶνι δ' ἥδη--) or thirdly, by the Moone; whose irregularity *Solon* is reported by [k] *Plutarch* first to have marked. Observing therefore that she on the same day overtooke and surpassed the Sun, [l] ἀπὸ τῆς ἡμέρας καταλαμβάνουσαν καὶ παρερχομένην τὸν ἥλιον, he caused that to bee called [m] ἔνη καὶ νέα *the old and new*, because that remnant, which was before the conjunction, he thought belonging to the

[a] Then were all the months of 30 D. as you may see in Schol. Aristoph. Achar. p. 412. c

[b] Gem p. 32.

[c] Laertius in vita.

[d] Pollux l. 1.

[e] Petit. Eccl. Chro. p 215.

[f] In Διοσημ. p. 78.

[g] In Antigon. p. 213.

[h] In Aratum p 48.

[i] In Oedipo Tyran. p. 183.

[k] In vita pag. 66. l. 15.

[l] Plutarch.

[m] Laert. in vit.

the precedent Month, and that remnant which was after the conjunction, appertaining to the ſubſequent. (Theſe peeces [a] *Aratus* calls σωιόντων Μὶωᾶν πείρατα) in which matter hee is thought to have had *Homer* in ſight, who in his *Odyſſes* termes the thirtieth day, as *Didymus* expounds it, Τᾷ μὲ φθίνοντ]ϛ μιὼς, τᾷ δ' ἰσαμθοίο. Where we may note that then they had no μειῶν]ϛ, but counted from one to twelve in the *ordinall numbers*, uſed by [c] *Demoſthenes* in one Oration, ἐνδεκάτῃ and δωδεκάτῃ Ἑκατομβαιῶνος. Then putting the leſſer to the greater they ſaid τρίτῃ ἐπὶ δέκα, τετάρτῃ ἐπὶ δέκα, *the third above ten, the fourth upon tenne*, and ſo to twenty. [*] But when at the one and twentieth day they perceived the wane of the Moon to be great, and the light almoſt loſt, they changed the order and uſed δεκάτῃ φθίνοντος, ἐνάτῃ, &c. *the tenth of the decreaſe, the ninth of the decreaſe*, and ſo to the twenty nine, δευτέρᾳ φθίνοντος, *the ſecond of the decreaſe, or from the end*, going lower in number ſtil, as the ſplendor of the Moon was diminiſhed, but the thirtieth they call'd ἕνη καὶ νέα for the cauſe above. Here likewiſe they take the reaſon why the Moneth ending was φθίνων [d] Ἐοικὸς φθίνειν, ὥσπερ καὶ φθείρεσθαι δοκεῖ τὰ φῶτα. Becauſe the daies and Moons doe as it were die, according to that of *Horace*. *Noveâ, pergunt interire Lunæ.* [e] *Macrobius, quid aliud niſi illum* φθίνοντα *dicit, cujus paulatim deficientis ſupputatio in nomen deſinit ſecuturi: &* ἰσάμηνον *illum, qui præcedit numerum ſucceſſurus priori in defectum meanti.* Ἰσάμηνος ſtanding to ſupply the place of the departing Moneth; fixed and ſtill waiting untill the Moone ſhall have journied to the compleating and ending of the precedent time. Thus the laſt day of our lives is ſaid to ſtand. *Virgil*, [f] *Stat ſua cuiq; dies*, as unto which we muſt paſſe through all the reſt, and once approach. Thus ſquared they their times and ſtate matters to the Moone. Hence read we μιῶας κατὰ πόλιν ἄγειν, to count the Month as they do, who manage politick buſineſſes, or belonging to government. In which courſe they made their yeare of CCCLIIII daies, which divided into ten parts make ten times

[a] In Dioſcm. p. 125.
[b] Ὀδυσσ. ξ. pag. 164.
[c] Contra Timocratem. p. 446. n. 39.
[*] Vide Plutarch. loco nuper laudat.
[d] Ulpian in Dem. p. 210.
[e] Macrobius Sat. l. 1. c. 16.
[f] Æneid. 10. p. 330.

times 35, which ſpace each [a] πρυτανεία ruled in its turne, the foure that abounded were called ἐμβολιμαῖαι, in which they choſe Magiſtrates, being for that time deſtitute of them. The yeare thus diſpoſed, the Moneths muſt of neceſſity be πλῆρεις καὶ κοῖλοι *cavi & pleni*, as [b] *Geminus*. Οἱ δὲ ἐνιαυτὸν ποιοῦντες ἀγομένων ὁλοσχερέστερον, λαμβανόμενοι μιᾶς ἑκάστου ἡμέρας κθ ϛ, ὥστε τὸν μὲν μῆνα γίγνεσθαι ἡμερῶν λ, ὅθεν διὰ τοῦτο τοὺς αὐτοὺς οἱ καλοῦσι πάλιν μὴ ἔναλλὰξ ἄγοντες πλήρεις καὶ κοίλους. διὰ τὸ τὸν ἕνα λείπειν ἡμέρᾳ ἕνα. If a Moneth have 29 D: ½, two have 59. Becauſe therefore the two halfes might bee made one whole, they ſo ordered it that now it ſhould bee 29 D. then 30 D: The *Athenians* counted their day from the ſetting of the ſun on this day, untill the going down of the next. In reſpect to which [d] *Nicander* may be thought to ſay of noon ſleep,--ἀμφιπερὸν δ' ὕδατι. *To take reſt at the beginning of the even.* I know that the Ancients wrought but ſix houres in the day. [e] *Martial*, *ſexta quies laſſis ſeptima finis eris.* Which [f] *Euſtath.* affirmes in his Commentary on *Homer*. And therefore Z H. Θ I. were the notes of the 7,8,9,10. houres, which joyned make Ἥδη, as if they ſhould have ſaid to the Laborers *Reſt*. The beginning of the yeare was [g] *Hecatombæon*, *July*, the eight; ſaies [h] *Petitus*. They ever accounting that to be the firſt Moneth. In which order I have found them ſet downe in a [i] Manuſcript in our publique Library, only *Mamacterion* is to be put above *Pyanepſion*.

[a] Argum. Or. Dem. contra Androt. pag. 380.

[b] Elemen. Aſtronom. p. 31.

[c] Macrob. l. 1. Sat. 3. Plin. nat. hiſt. l. 2. c. 77.

[d] In Theriac.

[e] Lib. 4. Ep. 8.

[f] In Ιλ. ad ἀμαδὸν καὶ νυκτὶ πτόλεος.

[g] Caſanb. in Athen. p. 931.

[h] Caronol. Eclog.

[i] In 4. num. 24. p. 264.

Roman.	*Macedon.*	*Hebrew.*	*Ægypt.*	*Hellen.*	*Athenian.*
Ιανναρεῖος.	Αἰγόχεως.	Σάβαρ.	Τυβί.	Αὐλαῖος	Ἑκατομβαιών.
Φεβρουάριος.	Υδροχόος.	ΑΒαρ.	Μαχειρ.	Πεσίγειος.	Μεταγειτνιών.
Μάρτιος.	Ιχθύες.	Μεπά	Φαμενώθ.	Δύστρος.	Βοηδρομιών.
Απρίλλιος.	Κῖος.	Ιάβ.	Φαρμοῦθι.	Ξανδικός.	Πυανεψιών.
Μάϊος.	Ταῦρος.	Ψιδοναὶ	Παῶν.	Αρτεμίσιος.	Μαιμακτηριών.
Ἰούνιος.	Δίδυμος.	Θαμαί.	Παυνὶ.	Δαύσιος.	Ποσιδεών.
Ἰούλιος.	Καρκῖνος.	Αβ'.	Επφί.	Πάνημος.	Γαμηλιών.
Αὔγουστος.	Λέων.	Εὰλ.	Μεσυεί.	Λῶος.	Ανθεστηριών.

Σεπ-

Σκιροφοριών.	Παρθένος.	Θυσεί.	Θυσία.	Τοξπαῖος.	Ελαφηβολιών.
Ωκτώβριος.	Ζυγός.	Μυστικόν.	Φανοφί.	Τοξβεσεῖος.	Μουνυχιών.
Νοέμβριος.	Σκορπίος.	Χαλιβ'.	Αθυσί.	Δίος.	Θαργηλιών.
Δεκέμβριος.	Τοξότης.	Τίσηθ'.	Χοιάκ.	Απόλλων.	Σκιροφοριών.

In which table although *Hecatombæon* be compared to the *Julian* Moneth *January*, yet it appears not that *Hecatombæon* was ever so removed out of his place, as [a] *Petitus* will have it, *Epiphanius* contradicting, of which by and by. Indeed when the Christians in honour of their Easter began the yeare in April, they called April *Hecatombæon*, as [b] he himself testifies. But that *Hecatombæon*, was alwaies the first Moneth is not probable. For when the *Athenians* under the dominion of *Alexander* the Great's successors changed the head of the yeare from *July*, to the seventh of *October*, it is like that they began at *Mamacterion* according to this [c] rule.

[a] Eclog. Chr. p. 214.

[b] Loco laud.

[c] Ex M. S. Biblioth. Bodleianæ in 8. n. 8.

Μαιμακτηριών.
Ποσειδεών.
Γαμηλιών.
Ανθεστηριών.
Ελαφηβολιών.
Μουνυχιών.
Θαργηλιών.
Σκιροφοριών.
Εκατομβαιών.
Μεταγειτνιών.
Βοηδρομιών.
Πυανεψιών.

[a] Certaine it is that the same *Attick* Moneths are sometimes Lunary, and sometimes not, but of 30 D: or *Julian*; When they are Lunary they have no sure seat, but are now at this time, then at another. And this hath been the reason why the same Months have not been suted to the *Julian*, by writers.

[d] Vide Petav. in Epiphan. p. 138.

[a] Pag. 21. [b] Pag. 163. [c] In Olynth. 3. [d] Pag. 148. [e] Pag. 140. [f] Pag. 167. [g] Pag. 120. [h] Pag. 167. [i] Eclog. l. 1. c. 6. p. 213. [k] Vide Petav. in Epiphan. pag. 139.

Ulpian on *Demosthenes* parallels *Hecatombæon* to [a] *January*, and in the Oration for *Ctesiphon*, to *March*, and againe to [b] *April*. [c] *March* he calls *Boedromion*, which also he interprets [d] *June*. *Elaphebolion* [e] *November*, [f] *September* (in the margin *February*) and [g] *December*. [h] *Thargelion*, *April*, *Munychion* *January*. *Scirrophorion*, *March*. Which errors are cursorily noted by [i] *Petit* in part, to no great satisfaction. But when by the decree of *Augustus Cæsar* they were changed to conforme their year to the *Julian*, they [k] thus numbred:

Menses Attici.	*Menses Juliani.*
Ἑκατομβαιών.	*March.*
Μουνιχιών.	*April.*
Θαργηλιών.	*May.*
Σκιροφοριών.	*June.*
Ἑκατομβαιών.	*July.*
Μεταγειτνιών.	*August.*
Βοηδρομιών.	*September.*
Μαιμακτηριών.	*October.*
Πυανεψιών.	*November.*
Ποσειδεών.	*December.*
Γαμηλιών.	*January.*
Ἀνθεστηριών.	*February.*

But of this, so much only. Wee must handle their Lunarie yeare because according to them were their feasts kept. From whence sometimes they would count, as [l] τοσοῦτον ὅσον ἀπὸ Διονυσίων. So much and as long since the *Bacchanals*; speaking of the age of a girle. For a more compendious way of comprehending their holy-daies view this Almanack.

[l] Aristoph. p. 106. 6.

Hecatombæon. *July.*

1 ΝΟΥΜΗΝΙΑ ΤΟΥ ΠΡΩΤΑΝΕΙΑ ΠΡΩΤΗ.
2 Τελετη.
3 Τελετη.
4 Πρωτη.

5 Εκτη.

5 Εκτη.
6 Εβδόμη. * Καὶ δ' ἐν Θησείοις Ἀθλοις. Kept in memory of
7 ΕΝΑΤΗ the return of *Theseus* out of *Creet*, after he had
8 Ἑνάτη slaine the *Minotaure*. [a] *Plutarch.* The solemni-
9 Δεκάτη tie [b] *Ovid* seems to defer it. *Nullus Erectheidis*
fertur celebratior illo Illuxisse dies &c. the eight
day of every Month was sacred to him. He had
also a festivall called *Theseia*, in honour of ga-
thering together the dispersed people of *Attica*
10 πρώτη μετὰ νέαν.
11 Δευτέρα. ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Α.
12 ΤΡΙΤΗ. ΚΡΟΝΙΑ. Of these, as also of the day, speakes
13 Τετάρτη. [c] *Demosthenes.* Then did the Masters wait on
14 πέμπτη. their servants, as in the Roman Saturnalls.
15 * Εκτη. [d] *L. Accius. Maxima pars Graium Saturno, &*
16 Ἑβδόμη. *maxime Athenæ Conficiunt sacra, quæ Cronia*
17 Ογδόη. *esse iterantur ab illis, Cunctq; diem celebrant, per*
18 Ἐνάτη. *agros, urbesq; fere omnes Exercent epulis læti, fa-*
19 Δεκάτη. *mulosq; procurant Quisq; suos.*
20 Δεκάτη φθίνοντος. ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β. Hence was
21 Ἐνάτη. this Moneth called by the ancient *Athenians*,
22 Ογδόη. Κρόνιος; afterward *Hecatombæon*, from
23 Ἑβδόμη. ἑκατόμβαια, sacrifices to *Jupiter* or *Apollo*, as
24 Εκτη. some thinke with the bloud of an hundred
25 πέμπτη. beasts: For so were they profuse in their sacri-
26 Τετάρτη. fices. [e] *Ovid. Taurorum sanguine centum.*
27 * ΤΡΙΤΗ ΠΑΝΑΘΗΝΑΙΑ. [f] The Scholiast of *Homer*
28 Δευτέρα. sayes that *Hecatombe* may be used for five and
29 Ενη καὶ νέα. twenty beasts, whose feet make up the num-
ber of an hundred, ἀπὸ τῆς ἑκατὸν ποδῶν, ὃ ἐστὶ πέντε καὶ εἴκοσι βοῶν.

* To *Minerva* the protectresse of their city, as hath been before said, instituted by *Theseus*, as [g] *Plutarch.* ἐν παναθηναίοις

[a] In vita p. 12.
[b] Metamorp. l. 7. Fab. 3. Vide Iulium Scalig. Nam erit operæ pretium.
[c] Pag. 426. contra Timocratem.
[d] In Annalib. vide Macrob. Satur. l. 1. c. 7. versus finem.
* Then were kept the Mætoikia in memoriall of their transmigration. Plut. p. 8. l. 9. By some it is termed Ξωοίκια Aristoph. pag. 100. Plut. in vio Them. l. 12.
[e] Metamorph. l. 15.
[f] In Il. α. pa. 6.
[g] In vita p. 8. l. 8.

θυσίαν ἐπόιησε κοινήν. At first they had the name Ἀθήναια by *Erichthonius*, or *Orpheus*. In the time of solemnization there were rare shews exhibited to the people, such as horse races, wrestling, dancing in armour, called Πυρρίχη, from *Pyrrhus* that invented it; Then carrying in procession the *Peplus*, or robe, in which was wrought the fight of the Gyants. All which you may read in [a] *Meursius* at large, and [b] *Aristophanes* his Scholiast.

a In Panathenæis.

b Pag. 140 197. 180. 181. 467. 580 650. 746.

The second of this Moneth is called κοίλη, because it hath but 29 daies, and so alwaies in *cavis*.

Metagitnion. August.

From the sacrifices of *Apollo*, called Μετα-

1 ΚΤΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.
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4 ΚΤΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.
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7 ΠΡΤΤΑΝΕΙΑ ΔΕΤΤΕΡΑ.
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17 ΚΤΡΙΑ ΕΚΚΛΗΣΙΑ. Α.
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26 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.
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* *Boedromion.* September.

1
2 ΝΙΚΗ ΕΝ ΠΛΑΤΑΙΑΙΣ. When *Pausanias* and *Aristides*
3 overthrew *Mardonius*, *Xerxes* his Generall neare *Platæa*,
4 a citie of *Bœotia*, * *Herodotus*, b *Justin*.
5 ΝΙΚΗ ΕΝ ΜΑΡΑΘΩΝΙ. *Miltiades* leader of the *Attick*
6 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ. forces got the upper hand of
7 the *Persians*. In which battell
8
9 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ. when *Cynegirus* pursued the
10 flying enemies to their ships,
he caught hold of one with his
11 * Χαριστεία Ελευθερίας. right hand, which lost, he made
use of his left; that cut off, hee in
token of his prowesse spared not
12 his teeth, to the eternizing of his name for valour a-
13 gainst his enemies.
14 *ΑΓΤΡΜΟΣ ΜΥΣΤΗΡΙΑ.
15 * In thankfulnesse for the delivery of *Greece*, at what
16 time *Darius* and his Fleet went homeward. b *Aristides*
17 describes the joy at full, and the erecting of an Altar
18 to *Jupiter* that freed them.
19 * The greater in which they were made c ἐπόπται, or
20 admitted to the sight of that they worshipped. The first
21 day was called ἀγυρμὸς, perhaps from the conflux of the
people

* From this moneth came the feasts *Boedromia* from *Theseus* overthrowing the Amazons. Plut. p. 2. or *Ion* helping the Athenians against *Eumolpus*. *Bonδρομεῖν* to aid because in necessity they made a cry. Aristophan. Βοὴν ἴσχειν. Lucian. ὀπισθοδρομεῖν. Latini *Quiritari*, hence help came in.

a Callion. p. 234. b. lib. 3.
b Tom. 1. pag. 257. see Plut. in Aristid. p. 341.
c Sch. Aristoph. pag. 247.

Here I look on *Meursius* for brevities sake, but if you please to read severally, see Aristoph. Sch. p.85.98.131. 138.455. 529.647.142. 218.227.228. 231.233.237. 262.264.316: Artstid.T.1. p.323.Clem. Alex.in Pro. trep p.10.

22 *ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ.A. people. The second ἁλαδε μυσι, because the Crier then
23 warned them to goe to the sea. The third day they sa-
24 crificed a Barble, because it devours the sea hare, an ene-
25 mie to man. The fourth, two Oxen drew a basket, re-
26 presenting *Proserpine* gathering flowers, which wo-
27 men following cried χαῖρε Δήμητερ, Haile *Ceres*. The
28 fift they ranne with torches. Hence λαμπαδηδρομία, and
29 λαμπάδων ἡμέρα. The sixt *Baccus* was carried in pomp. Hence is it termed ἴακχος. The 7th day they exercise in feats of activity & he that overcame had wheat given him. The 8th was *Epidauria* from *Æsculapius* his comming from *Epidaurus* to *Athens* to bee initiated. In the ninth they filled two measures of corne, and setting one at East and the other at West, they powred them out, one looking to heaven and crying ὑε, the other to the ground, saying, πεῦ. Thus *Meursius*. That day was πλοωχόη.

The second of this Moneth was left out ever, saies [a] *Plutarch*, instead of which some are perswaded, the name only was omitted, as πεμπάς for πέντε, which was recompenced by ἐνδεκάτη ἐνδεκάτης, or ἑνδεκάς as in a defective Moneth δεκάτη ἐνάτης, for the the twenty. Of this judgement is the [b] *worthy Petavius*.

[a] Sympos. Q. l.9.q 6. & in l. περὶ φιλαδελφίας.p.331.
[b] Lib. de doct. Temp l.c.5. p.11.D.

* Mæmacterion is to be inserted here.

* *Pyanepsion.* October.

This Moneth took denomination from the feasts *Pyanepsia*. For mingling the remainder of their food after their ariving, they put it into one pot, and seething it, were joviall altogether at the same.

1
2 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ.B.
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ΠΥΑΝΕΨΙΑ. After that *Theseus* had buried his father, he paid the vow made at *Delos*, to wit, if he returned safe from the death of the *Minotaure*, hee would sacrifice unto him a pot of sodden beans. Hence πυανέψια, as it were χυτρεψια. For the antiques called beans πύανας.

Ανοδος εἰς τὰ Θεσμοφόρια.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.

ΘΕΣΜΟΦΟΡΙΑ. [a] *Plautus* calls this festivall *vigilia Cereris*, which the *Attick* Dames kept most sober and chaste, strowing their beds with *agnus castus* for that purpose, it being an enemy to lust. They prepared themselves with fasting, but after that tooke their liquor freely. The number of daies were three allotted, as some, or foure, as others. When *Castellanus* saies that *Ovid* makes them nine, is false; for that was the *Mysteria*, as we above have shewne. They were done in honour to *Ceres*, that gave lawes first, as shee is tearmed Δημήτηρ Θεσμοφόρος. Of these you may read [b] *Aristophanes* and his Scholiast.

[a] In Aulelaria

[b] Pag. 631. 770. 782. 783. 819. 820 819.

ΠΡΥΤΑΝΕΙΑ. Δ.

* Ἀπατούρια. Kept this Moneth. When the Parents brought their children to their Tribes to be enrolled, I suppose for feare of deceit in patrimonies. Then they made merry for four daies. The first was Δορπία. The second Ἀναῤῥύσις. The third, Κυρέωσις. The fourth, Ἐπίδεξια.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.

ΚΑΛΑΘΕΙΑ. In honour to *Minerva*. [c] *Meursius* teaches us that they were celebrated the 17 of this Moneth, but *Petitus* hath thus placed them.

[c] Græcia Feriata.l.1.

Mamalterion.

Mæmacterion. November.

This Moneth is to be placed before *Pyanepsion*, as I have above given notice, but in this Almanack I follow *Petitus*, who so hath set it, though much against the opinion of other learned; as Mr. *Selden*, *Petavius* and others, whom I would have you, Reader, to accept as for most approved.

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7 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.
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17 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ. *Plutarch* in the life of *Aristides*, sayes that the *Beotians*, nay and *Greeks* send yearly some to sacrifice to
18 the memory of those that died at *Platæa*, and every five
19 year they have great pastimes, which [a] he sets downe
20 the manner of.

a Pag.241.

21
22
23 ΠΡΥΤΑΝΕΙΑ. Δ. This Moneth is derived from *Jupiter Mæmactes*: for I suppose they
24 first found Gods, afterwards festivals to them. Not the
25 Months first, and then named the Gods from them.
26

27
28
29

Poſideon. December.

From *Neptune*, who is *Poſidon*. For the first day of this moneth was sacred to him, as [a] *Caſaubon*. Hence he thinks it to be called Ποσειδεὼν ἡμέρα. [a] In Theoph. Char. ult.

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4 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Α.
5 ΛΗΝΑΙΑ. *Dionyſia* τὰ κατ' ἀγρούς. Without the citie. It
6 ſeems when they had gathered in vintage
7 and preſſed their grapes. Ληνὸς *Torcular*. Then were they
8 moſt jocund, as may appeare out of that. *Like the voice of*
9 *them that tread the wine preſſe*, and in [b] *Oppian*. ὀπλωΐα [b] Κυνηγ. α.
10 χαίρειν. On which words [c] *Conradus Rittarſhuſius* takes v. 127.
11 Ληναιὼν to be *January*. [c] Pagina 18.
12
13 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.
14
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16 Ἀλῶα. A feaſt to *Ceres*. The day doubtfull. [d] *Demoſthen.* [d] Pag. 743.
17
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23 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.
24

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.

ΠΡΥΤΑΝΕΙΑ. ΣΤ.

Gamelion. January.

From the marriages first made by *Cecrops*, of whom before we have spoken, and more you may read in *Tzetzes* on *Lycophron*. That moneth wherein this people coupled, hence is called *Gamelion*, from Γάμος *nuptiæ*. It is sacred to *Juno*, who by the Poets is called *Pronuba* and *conjugalis*, President of weddings and the marriage bed.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.

Anthesterion. February.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.

ΠΡΥΤΑΝΕΙΑ. Ζ.

ΑΝΘΕΣΤΗΡΙΑ. Kept in great mirth for three daies in the honour of *Bacchus*. The first Πιθοίγια from πίθος the tubs, and ὄιγειν, to open, for at the broaching of their vessells they drunk stiffely. The second Χοαὶ from *Choes*, a good capacious vessell. In this he that could drink down the rest of his companions had a golden crowne. The third χύτρα, I suppose different from χύδοι. From this festivall the moneth is named. The twelfth of which *Dionysia* in *Limnis* were kept, called μεγάλα & ἀγαθόπεμπα. The 13th were acted Comœdies, begun the 3d yeare of the 93 Olympiad, when *Callias* was *Archon*. But after they were taught as [a] *Donat* and [b] *Ulpian* witnesse, and [c] *Aristophanes*, ὅτε πᾶσ' ἐσωτερίχλ ἐδιδυμῶν τὰ χαινὰ δεάματα βλέπιν, saies one.

Of this you may see Aristoph. p. 293. 417. 419. 422. 222.

The day was called χύδοι likewise, but not in the tense spoken.

a In Terent. p. 289.
b In Demost. p. 184.
c Pag. 143.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.

29
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Elaphebolion. March.

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4 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.
5
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7 Θυσία Ασκληπιῶ. ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.
8
9
10 ΠΡΥΤΑΝΕΙΑ. Η.
11
12
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15
16 Διονύσια τὰ κατ' ἀστυ.
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19
20 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Α.
21
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29 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.

[a] Contra Ctesiphont.

Of these [a] *Æschines* makes mention, and you shall have them obvious every where in the Greek Authors.

Munychion.

Munychion. April.

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10 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.
11
12
13 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.
14
15
16 Μυνύχια. Πρυτανεία ἕναπ. *Munychia* were obſerved to *Diana*, who was ſo called,
17 led, and had a Temple in *Munychia*, by *Athens*.
18 The Moneth beares the name. In this Moneth were the cauſes of ſtrangers judged, [a] *Ariſt. Sc.*
19 ΔΙΑΣΙΑ. To *Jupiter Meilichius*. The greateſt day that the *Attick* route was kept in. See of
20 this [b] *Ariſtophanes* and [c] *Euſtathius*.
21
22
23
24
25
26 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Α.
27
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[a] Avib. p. 609.
[b] Pag. 150.
[c] 174. Iſmen. & Iſm. l. 2.

Thargelion. May.

1
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5 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Β.
6 Θαργήλια. To *Apollo* and *Diana*; holding it to be their na-
7 tivitie. On this day did they expiate for the sins of the
8 people. For they were wont to nourish some base men,
9 and of no account, at the publique charge whom in time
10 of pestilence, or the like, they sacrificed for the sins of
11 the city. Two in number, saies the [a] *Scholiast* of *Ari-*
12 *stophanes*, whence they were called δημόσιοι; but more
13 properly καθάρματα & φαρμακοὶ,[b] *Aristophanes.*
14
15 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.
16
17
18 ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Δ.
19
20 ΒΕΝΔΙΔΕΙΑ. To *Diana*, who by the *Thracians* is named Βενδὶς.
21 ΠΑΝΑΘΗΝΑΙΑ ΜΙΚΡΑ. Not much different from the greater. See *Meursius.*
22 ΚΑΛΛΥΝΤΗΡΙΑ. ΠΡΥΤΑΝΕΙΑ. Ι.
23
24 ΠΛΥΝΤΗΡΙΑ. *Petitus* places it on the 24 day, o-
25 thers will have it the 25. To *Miner-*
26 *va*, on which they take off the ornaments of her statue,
27 and wash it I suppose, [c] *Plutarch*, [d] *Xenophon.*
28
29

a In Equites pag. 353.
b In Ranis.
c Pag. 152.
d Ἑλλω. α. p. 257.

Scirrophorion.

Scirrephorion. June.

ΣΚΙΡΑ. To *Minerva*, from σκίρον, a Canopie, under which her Priests did walke in pomp at that time: or from the statue of *Minerva* found in *Scirus*. [a] *Schol. Aristoph.* [a] Pag. 497.

ΒΟΥΦΟΝΙΑ. It was not lawfull anciently to kill an Oxe: wherefore when one had slain that beast eating the meale provided for the sacrifice, hee slew him and fled, in memory of which this day was kept. Afterward they did mitigate the Law, and gave licence to butcher an Oxe, so that hee was not for the plough. To which [b] *Juvenal* may allude. *Ut vetulus bos* [b] Satyr. 10. v. 268.

Qui domini cultris tenue & miserabile collum
Præbet, ab invito jam fastiditus aratro.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Γ.

ΚΥΡΙΑ ΕΚΚΛΗΣΙΑ. Α.

Πρυτανήια. ἡ φυλὴ πρύτη, &c.

Where *Petitus* makes the foure first Tribes to governe each his day, on those foure that abounded above the yeare, [a] *Sigonius* seems to agree, and [b] *Manssacus* approves

[a] Athen. Rep. l.2.c.3.
[b] In Notis ad Harpocra.

proves it. Neither is it misliked by * *Petavius.* * *Scaliger* hath falsely taught us otherwise, who makes each *Prytania* to rule 36 daies, which none ever are to have done, except the first foure.

* De Doct. Tem. l. 2. c. 1.
* De emend. Tem. lib. 1

CAP. XI.

De Tragœdiâ, Satyricâ, & Comœdiâ.

IT is taken for grant among the Ancients, that *Homer*, who lived [a] 907 yeares before Christ, was the first that taught τραγικῶς λέγειν, to speak in Tragœdie; comprehending great and weighty matters in few words and very concisely, being more large and using circumlocution in matters of lesse consequence, which *Hermogenes* acknowledges to be the property of a Tragœdian. This foundation being laid, following ages still built (though rudely) a structure to small perfection. *Nam post illius tale tantumq; documentum, &c.* saies *Donat.* For after that *Homer* by the Iliads had represented a Tragœdie, by the *Odysses* a Comœdie, most ingenious imitators took those Poems and set them in order, and divided them, which at that time were inconsideratly, & without judgement writen, impolisht, and in the first rudiments not so neat & trim, as in processe of time they were made. For Poesie was a great while in her minoritie, and very rude, after the first publishing of plaies. For we see little or nothing of [d] *Susarion*, the first Comœdian, worth our time; some few verses only, & so few as may but witnesse such an Authour. The originall of the word Comœdy is supposed to be taken from divers reasons: First, because in their revelling, kept in honour to *Bacchus*, they sung them, and so it may be derived from κῶμος, *commessatio*; κωμάζειν, signifying μὴ μέθης αἰσχρῶς ἄδειν, to sing basely at the cup. Secondly, from κῶμα, sleep; because when any of the *Attick* husbandmen had been injured, it was the custome (as before hath been spoken) for the party abused, to come in

a Vid. Can. Chro. ad Gr. Epoch Mar. Arund. p. 97.
b Hermog. de Eloq Meth. p. 361. c. 33. Eustath. in Præf. ad Iliad.
c Tract. de Trag. & Comœd. præfar. Terentio.
d Marmo Arundel. & ad ca. Seld. CL. Præfixa etiam Aristophan. περὶ κωμῳδ.
Sch. in Naz. Stel. C. p. 106.

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the night ſeaſon into the ſtreets, and with a loud voice cry, ſuch and ſuch rejoyce in wrong, and commit ſuch outrages, though there be Gods and Laws. And after that, proclaimed the parties name, who on the morrow was fought out by the husbandmen and much aſhamed; by which theſe wrongs were redreſſed. Thirdly, from κώμη, a ſtreet, becauſe when the old *Athenians* would note a wicked mans life out to the world, meeting merrily in the ſtreets and high waies, they laid open every mans life, and concealed not his name, [a] *In vicos & compita ex omnibus locis læti, alacreſq; veniebant: ibiq; cum nominibus ſingulorum vitam publicabant.* Theſe verſes were firſt ſung [b] in the green meadows, [c] about the beginning of the ſpring; When the husbandmen kept the feſtivalls of *Bacchus* the God of Wine, to whom they ſacrificed a Goat, becauſe his biting is an enemy to the vine, the skin of which they took and ſowed up cloſe, filled with wine, and anointed it with oyle to make it ſlippery, and ſo hopped with one leg upon it, making themſelves laughter at the falls they often tooke. This ſport they call ἀσκωλιάζειν from ἀσκὸς a skin and ἅλλεσθαι, to leap [d] *Ariſtophanes*. Ἀσκωλιάζ' ἐνταῦθα περὶς πίθῳ αἰθείαν. [e] *Virgil* hath fitly ſet it out.

Non aliam ob culpam Baccho caper omnibus aris
Ceditur, & veteres ineunt proſcennia ludi:
Præmi aq; [f] ingentes Pagos & compita circum
Theſeida poſuere: atq; inter pocula læti
Mollibus in pratis unctos ſaliere per utres.

After *Suſarion*, ſprang up *Theſpis*, the firſt that made Tragœdies, which by *Horace* are termed, *Lachrymoſa poemata*, ſad Poems; becauſe they repreſent humane miſeries, the misfortunes of Kings & great men eſpecially, there being no place for a poor man, but only to dance, as [g] *Arrian* hath obſerved. Which thing gave an occaſion to [h] *Socrates*, when he ſaw the moſt worthy & rich put to death under the thirty tyrants, to ſay to *Antiſthenes*, doth it not repent thee that we in our lives never did ſome famous exploit? So in Tragœdies we mark

a Donatus de Tra. & Com.
b Idem ibid.
c In ſynopſi vitæ Ariſtop. Th. Magiſter.
d Plut. p. 108.
e Geor. 2. p. 71
f Iſa. Tzetzes in Proleg. ad Poetas, interpretis κώμας, μέσας χωρίας
g In Epictet. p. 95.
h Ælian. Var. l. 2. c. 11.

that such as *Atreus*, *Thyestes*, and *Agamemnon* are slaine; but what Poet was yet so impudent as to bring a base fellow on the stage sacrificed? Not supernumerary is that of *Euripides* for *K. Archelaus*, desiring that he would write a Tragœdie of him, who prayed that nothing proper to a Tragœdy might happen to him; meaning sorrow and lamentation. For so is Τραγῳδία used, as [a] Κωμῳδία for joy and mirth, and glee conceits. The first Tragœdie that *Thespis* taught was that of *Alcestis* repriving her husband from death by her owne, as [b] Mr *Selden* hath conjectured. This *Thespis* was forbidden by *Solon* to act his Tragœdies, as [c] αἰσωφελῆ ψευδολογίαν, a fruitlesse lying. *Horace* of him thus speakes:

Ignotum tragicæ genus invenisse camœnæ
Dicitur, & plaustris vexisse poemata Thespis.
Quæ canerent agerent q; peruncti fœcibus ora.

Upon which words some have written that his Poems were so voluminous, that he was constrained to bring them upon waines. But alas, a poore conceit! [d] *Franciscus Lusimins, Uticensis* is of opinion that *Thespis* carried his scene upon cars: and *Acron*; That the *Chorus* carried about in waines acted Tragœdies. *Chori plaustris circumducti tragœdias agebant.* [e] I avouch that at the first the Poets acted alone their owne Fables; And to me it seems a ground for to stand on, the Greek Authors by the word ὑποκρίτης, intimating a Poet. Οἱ ἀρχαῖοι ὑποκριτὰς, &c. The ancients, saies [f] *Ulpian*, called the Poets *Hypocritas actors*, which we now terme *Tragœdi*, such as *Euripides*, *Aristophanes*, &c. The place in which they sung their Poems, was a Scene upon a wain drawn in procession to the honor of their God *Bacchus*, as among the *Greeks* the custome was, saies the Scholiast of *Nazianzen*. Of the manner in those ancient times, [g] *Plutarch* shall thus informe you. Ἀμφορεὺς οἴνου καὶ κλῆμις, &c. A pot of wine and a vine twig, then one drawing a Goat, next another with a basket of figs, and last of all the *Phallus*. In which solemnitie the Poets in waines following the pomp, might with controle laugh, scorne, and deride any they met, saies [h] *Dionysius Halicarnassan*;

a Athen. l 3. p. 90.
b Mr. Selden. Arund.
c Laert. in Solone. p. 40.
d In Horatii Poeticen.
e Schol. Arist. p. 142.
f In Demost. p. 40.
g Stel. β. pag. 107.
* φιλόπλουτος p. 343.
h Antiq. Rom. l. 7.

sans; or were wont, as the [a] Schol. of *Nazian.* to raile upon each other, whence πομπεύειν, is as much as to convitiate impudently (though in a good sense sometimes [b] to celebrate the pom, or goe in procession in honour to the festivall) and [c] κῶμος ἀτὴ, a scandall or reproach, ὕβεις, λοιδορία. Whence likewise came the Greek proverb, [d] ὡς ἐξ ἀμάξης λαλεῖν, *tanquam ex plaustro loqui*, and [e] ὡς ἐξ ἀμάξης ὑβρίζειν, *tanquam ex plaustro convitiari*, to give reins to the tongue, to be free in abuse. Which that they might doe the better without shame, or blushing, sometimes would they anoint their faces *amurca, olei face*, with the dregs of oyle, saies *Donat.* or of wine, (for so I interpret πύγα) from which Poets by [f] *Aristophanes* are called πυγοστάμονες. *Horace--Perunctis fœcibus ora.* Sometimes would they put on vizards, [g] which least they should hurt the head, were defended from the skin with a wollen cap, named πιλίδιον. A word elegantly used by [h] *Demosthenes*, in a Metaphor drawn from the liberty and impunity of the persons that wore it. Οὐκ ἔστι δίκαιον φεύγειν πιλικιτῶν καὶ τοιούτων ἀδικημάτων κἂν πιλίδιον λαβὼν ὅδε τὸν κεφαλαιῶ. Thinke not to escape scot-free for such villanie, though you get a *pileum* on your head. We may apply it in threatning to any slanderer, of whom we surely intend to be revenged. But I seem to forget the Poet, while I speake of the stage, I will therefore returne to him. *Thespis*, as I said, was the first that invented Tragœdies; so called, as *Donat.* tels, because (lest there should be rewards wanting, by which good wits might be stirred up to write, and men incouraged to get them tunable voices *ad dulcedinem commendationis*) they gave the Actors a Goat. *Caper namq; pro dono his dabatur.* τράγος is a Goat, and ᾠδὴ a song. *Horace, Carmine qui Tragico vilem certavit ob hircum.* Before that time some say that *Epigenes* the *Sicyonian* made Tragœdies, but the most received opinion is this which *Horace* hath set downe of *Thespis*. Before him there was no art of poesie Tragicall, but at their festivals, when they ascribed all their mirth and delight to their gods, they did it especially

a Loco laud.
b Hermog. Meth. de Eloquentia, c. 2. p. 519.
c Dem. pro Coron. p. 134.
d Schol. Arist. p. 142.
e Ulpian in loc. cit. Dem.
f Nubibus p. 141.
g Ulpian. in Dem. p. 254.
h De falsa Legatione.

ly to *Bacchus* (and ſo afterward, when Actors are called, Διονύσε περὶ Θ, and περὶ Θ, ſimply by [a]*Demoſthenes*, by *Donat. Artiſices*. The word is uſed for Juglers, and ſuch as *Hokus Pokus* in [b] *Theophraſtus*) they would feaſt, and afterward ſcoffe and deride each other, which grew after ward a part of their ſolemnity. They would moreover dance at rude Muſick, and from thence ſuppoſe they the *Chorus* to have ſprung up. They would likewiſe caſt forth αὐτοσχεδιάσματα, as they terme them, in [c] *Virgils* language, *verſus incomptos*, [d] *Numeros innumeros eo tempore fundi ſolitos & ſine arte*. For they had of old but two ſorts of verſes, *Heroicks*, in which they ſung the praiſe of Gods and Noble-men, and from this in a ſhort time with ſmall care grew a Tragœdie; the other ſort was *Iambicks* as toying and laſcivious as the *Phallica*, but biting too, and from hence came a Comœdie. At firſt ſmall was the difference between a Tragœdy and Comœdy [e] *conſtat ſane, primis temporibus ignoratum fuiſſe diſcrimen inter Tragœdiam & Comœdiam*, and the reaſon is, becauſe even Tragœdies had their wantonneſſe and petulancie. At firſt they ſung in honour to *Bacchus Dithyrambicks*, and afterwards neglecting him they praiſed their Demi-gods, which when the people ſaw they cryed downe, with Οὐδὲν πρὸς Διόνυσον, whence our proverbiall adverb is fitly uſed οὐδὲν πρὸς Διόνυσον, for nothing to the purpoſe. But to give content to the people, the Satyres did *Præludere*. But after that, when a Tragœdy took ſtate they excluded the Satyres, and were only for ſad and ſerious perſons; by which mournfull Poems the people were wont to be caſt down, ſympathizing with the perſon repreſented, therefore to cheer them, a *Chorus* of wanton Satyres were brought in by *Theſpis* as [f] *Horace*.

Mox etiam agreſtes Satyros nudavit, & aſper
Incolumi gravitate, jocum tentavit, eo quod
Illecebris erat & grata novitate morandus
Spectator, functuſq; ſacris, & potus & exlex.

In a Satyrick play, Satyres have a *Chorus* place, or elſe the perſons

a Orat. παραπρ. p. 242.
b Charact. vi. Caſaub.
c Georg. 2.
d Caſaub. de Sat. Poeſi. l. 1.
e Caſaub. ib.
f De arte Poet.

persons are Satyrick and ridiculous, and for the easing of the mindes of the spectators, they would bring in Satyres for sports sake; and many of their Tragœdies had some mixture of Satyrick sport, saies [a] *Casaubon. Fuisse aliquando pluribus Tragicis Dramatis interjectas Satyricas fabulas.* Of this I say *Thespis* was the first inventer, who likewise to ease the *Chorus* ([b] for that acted only) brought one actor upon the stage, to whom *Æschylus* added one, and *Sophocles* another, so the number was three, *Æschylus's* is δευτεραγωνιστὴς, *Sophocles* his τριταγωνιστὴς, a word put for an obscure & base fellow in [c] *Demosthenes*, *Ulpian*, ὡς ἀδοκιμώτατος καὶ ὑποκριτὴς, speaking of *Æschines*, if I remember, *Tully* calls them Actors *secundarii & tertiarum partium.* [d] *Ut in actoribus Græcis fieri videmus, sæpe illum qui secundarum & tertiarum partium, cum possit aliquanto clarius dicere, quam ipse primarum, multum summittere, ut ille princeps quam maxime excellat.* But let mee speake what I have to say of a Tragœdie. [e] None was permitted once to act *Æschylus*, *Euripides*, or *Sophocles* his Tragœdies, but they were to bee recited by the Scribe, that the Actors might (as I conceive) repeat them. Τὸν δὲ πόλεως γεγραμμένα δραματικὰ ἀναγινώσκειν τοῖς ὑποκρινομένοις, οὐκ ἐξεῖναι δὲ αὐτοὺς ὑποκρίνεσθαι. And to this purpose by a Law of *Lycurgus* the Oratour were they commanded to be transcribed, and kept under custody ἐν κοινῷ. Yet the [f] Author of the life of *Æschylus* writes, that the people made a decree, that he should receive such a summe of gold, that would διδάσκειν the plaies of *Æschylus* after his death. I put the word διδάσκειν, *docere*. Because Tragœdians as well as the Comœdians were said εἰς διδασκαλίαν τῶν θεατῶν ἐργάζεσθαι, to labour in teaching the people. And for this end did the ancients lay out so much mony upon their Theaters. [g] *Sed immane quos quanto? sumptus, in Theatra, in Comœdiarum ac Tragœdiarum repræsentationem fecerit antiquitas. Cum non mores tantum ab utris? emendari, ac prudentiam conferri, sed & scripta antiquissima, & formas Reipublicæ, ac vitam magistratuum, cum summo spectatorum fructu,*

[a] P. 129. de Sat. Poesi.

[b] Laert. p. 229

[c] 184.

[d] In divinat.

[e] Plutarch *in* vita X Rhet. p. 452. B.

[f] Juxta finem.

[g] Heinsius Proleg. ad Aristarchum Sacrum.

in Comœdia examinari, factiones componi, ac graviſſima ſubinde publico ſuppeditari crederent conſilia. Not unfitly therefore did the Poet reply to the people that carped at him in the Theater. *I came hither to teach you, not to be taught by you.* Hence of a Tragœdie or Comœdie the Greeke writers ſay, [a] διδάσκεσθαι, *docetur fabula*, and διδάσκειν, *docere*, as ſometime διδάσκειν, as you may ſee in [b] *Athenæus*. The following Poets did not alwayes repreſent their owne Fables, but oft-times their predeceſſors; ſo ſaies [c] *Quintilian*, the people permitted the works of *Æſchylus* to be dealt with, becauſe in many places his verſes were not ſet in order. Hee brought great grace to the ſtage, & firſt taught σκιωγραφίαν, the painting of the Scenes; which ſome thinke *Horace* to aime at, when he ſaies, *Modicis inſtravit pulpita cignis.* Which becauſe it was perfected by *Sophocles*, is thought (nay ſpoken affirmatively by ſome) to have been invented by him. *Sophocles* indeed did πολλὰ καινοτομεῖν, bring in many new things, ſuch as leaving out the action of the Poet (for before the Poet himſelf acted) by reaſon of the badneſſe of his owne voice; hee found out white ſhooes, which the Actors and Dancers wore; he made the number of Dancers fifteen, before but twelve; he fitted likewiſe his Tragœdies to the natures of the Actors, &c. but that he invented σκιωγραφίαν I cannot finde. Somewhat likewiſe was added by *Euripides*: [d] as to ſet out the Argument of the Fable in the beginning of the Tragœdie, as you may obſerve; leading the Auditor, as it were by the hand, to the laſt and principall point of that one action which he would repreſent, which by the glory of our nation, [e] Sr *Philip Sidney* is not paſt by, as frivolous, without noting. Theſe three were the Princes of Tragick ſtile, who exhibited to the People every yeare at ſome certain ſolemnities their Poems, ſtriving who ſhould get the victory by the approbation of Judges, choſen for that purpoſe, called [f] Διονυσιακοὶ Κριταὶ, and [g] Κριταὶ τῶν Διονυσίων, Ten in number, thinke ſome at firſt, gathering out of *Plutarch*, in the life of *Cimon*, authority for it. Becauſe

a Athenæus Dip.l.6 pag. 268. vide Caſaub.
b Pag. 270.
c Lib.10.
d T. Magiſter.
e In the defence of Poeſie.
f Heinſius in Proleg. ad Ariſtarchum ſacrum.
g Æſchines cont. Cteſiph.

cauſe when he had brought the Reliques of *Theſeus* out of *Scyrus*, *Aphepſion* the *Archon*, in gratulation to him, choſe not the Judges as ſoon as the Theatre was filled, and ſpectators placed; but preſently after *Cimon* entred the Theatre with nine more of his fellow Captaines, of each Tribe one, after accuſtomed ſacrifice he ſwore them Judges, who gave the victory to *Sophocles* but then young; for which *Æſchilus* grieving went into *Sicilie*, where he dyed, and was buried near *Gelas*. But out of this place we cannot prove that the number of theſe Critick Judges was alwaies Tenne. This we acknowledge done in teſtimony of high acceptation of *Cimons* ſervice. And yet in judgement upon Tragœdians, the number might be ſo great. For there ſeems to be a difference between the Judges of Tragœdies and Comœdies. The number of Tragick Judges, grant we haply to be ſuch as we ſpeak the power incontrolable, as from whom there was no appeal to others. [b] *Cum neq; provocatio ab iis eſſet, neq; de quibus illi judicarent, magiſtratus cæteri ſententiam pronunciarent.* The Comick Judges were in number but five, from whence came the Greek proverb, [c] Πέντε κριτῶν ὑπὸ γόνασι κεῖται, *Sub quinq; Judicibus lis eſt.* The [d] Scholiaſt of *Ariſtophanes* ſpeaks ſomewhat uncertaine. Judges, quoth he, paſſe cenſures upon the Comœdians, & they who had five voices were happy. Thoſe were all. For if there had been ten of them too, it would have made nothing to the Poets felicity to have had equall voices. For the odde gave a great ſtroake. Hence wiſhes the *Chorus* in the behalfe of the Poet- Ἐνὶ κείσῃ γνώμῃ μόνον, to be victor by one voice only. Another difference is that, whereas the Tragick Judges had free liberty of ſuffrages beyond the power of the people, the Comick had not: For whē *Ariſtophanes* taught his Νεφέλας, they ſo much took the people, that they applauded the Poet, cried him up Conqueror, ἐξ ὑπερφυοῦς τῆς κειμένης ἀνωθεν Δειξοφάνη, ἀλλὰ μὴ ἄλλον γέφειν, ſaies [e] *Ælian*, and commanded the Judges to write *Ariſtophanes* uppermoſt (as the faſhion was,) which [f] *Ariſtopha-*

[a] Plut. Cimone p. 352 l. 39.

[b] Heinſius loco laudato.

[c] Zenobius.

[d] Ad Aves p. 562.

[e] Var. H. l. 2.

[f] Avib. p. 562.

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nes cals πρωτεῖον ἐν πίναξιν, the moſt excellent firſt, the next to him ſecond, and next to him third (which was no ſmall praiſe, according to that of *Quintilian*, as I remember, *Honeſtum eſt in ſecundis tertiiſve conſiſtere*) and no other. For which cauſe I ſuppoſe the Poets before reciting, were wont to ſacrifice, and pray for the favour of the Judges and ſpectatours. [a] *Ariſtophan.*

a Loco laud.

Ομνυμ' ὅτι τούτοις πᾶσι νικᾶν τοὺς χρηταὶς
Καὶ τοῖς θεαταῖς πᾶσι--Where the Scholiaſt interprets ὄμνυμι truly as it is to be underſtood, δέομαι, to ſupplicate. And good reaſon. For if they pleaſed not the people in reciting, they were overwhelmed with ſtones. To which uſe [b] *Ariſtophanes* points, ſaying--οὐκ ἐβάλλετο; nay ſometime would they hiſſe them, which they terme κλάζειν and συρίττειν, ſometime ſtamp them out of the Theater, which they call πατροκοπεῖν, by [c] *Pollux* interpreted ἰδιώτας ἢ πέρνας καταχρέειν. Another difference is that [d] the Comick Judges were puniſhed if they judged not right, the Tragick not ſo. And for theſe reaſons have ſome conjectured, nay poſitively written, that their Judges were of two ſorts, old and new, in which matter, if there be place for a conjecture, mine is, that they confounded both, making no oddes between the Critick Iudges of Tragœdies and Comœdies. But of this, Reader, you may determine as your Authors ſhall afford authority. Before Judges, as I ſaid, the Poets in emulation preſented their labours, & they who in their opinion loſt the day, were ſaid * ἐκπίπτειν, by [e] *Caſaubon* interpreted *non ſtare*. The time of exhibiting their Tragœdies, were the holy daies of *Bacchus* called *Dionyſia in agris*, or *Lenæa*, in the moneth *Poſideon*, on the *Antheſteria*, or *Dionyſia* in *Limnis*, in the moneth *Antheſterion*, on *Dionyſia* in *urbe* in the moneth *Elaphebolion*, to which I find added the *Panathenæa* by *Thraſylus* in [f] *Laertius*, which ſome deny; yet the ſame write that when *Sophocles* exhibited but one, it was at this feſtivall. I ſay but one, becauſe it was a cuſtome among the Poets of ancient daies to entertain their people with

b Ranis p.248.

c Lib 6.c.19. p.203.

d Æſchines contra Creſiph.p.98.

* Heinſius Prolegom. e Sat. Poeſi.

Platone pag. 220.

with more plaies then one. *Mos autem Tragicorum Græcorum fuit Athenis, ut modo singulas committerent fabulas, modo plures,* saies [a] *Casaubon:* Sometime in the same yeare three, and then was it called τριλογία, sometime foure, and then they stiled it τετραλογία, [b] Τὰ δὲ τέτταρα δράματα ἐκαλεῖτο ΤΕΤΡΑΛΟΓΙΑ. Whereof, saies mine Author, the fourth was a Satyricall play, the three other now treating of the fortunes of one and the same man, as those of *Æschylus*, named therefore *Oreſtia*; to wit, Ἀγαμέμνων. Χοηφόροι. Εὐμενίδες. Which are all extant; the fourth was *Proteus Satyricus*. At other times they were not of the same subject, as that of *Euripides*. *Medea. Philoctetes. Dictys.* The fourth was Θεεῖσαι, saies the Author of the argument to *Medea*. Where the interpreter seems to me not to reach to the expression of the Greek word Θεεῖσαι, Σάτυροι; *Messores, Satyros*; he ought to have rendred it thus, *Messores, Drama Satyricum*. For that the word bears this sense is sufficiently dilucidated by [c] *Casaubon*. That the greatest task of action lay on the *Chorus*, is as apparent as the Sun at noone. The number of them in Comœdies were twenty foure, and six *juga* (each *jugum* consisting of foure; but στοῖχοι foure, each στοῖχος six men) in Tragœdies fifty, untill the time of *Æschylus* his *Eumenides*, the number of which so terrified the people, [d] that the children and younger sort fainted, & the women suffered abortion; for which reason, saies *Pollux*, the number was lessened (which some deny) by law. They were by that Act brought to fifteen, five *juga*: I say *juga*, because they were divided into στοίχους, and ζυγὰ. Ζυγὸν was when the *Chorus* entred by three, and then it was called κατὰ ζυγὰ πάροδον; by file. Στοῖχος, when they came on the stage in rank five at a time; and this they terme κατὰ στοίχους. Sometime one of them entered alone, which they say καθ' ἕνα. Of interlocutors the ancients for the most part never had above three; but if a fourth spake, that they named ὑποκριτήν; and if the *Chorus* supplied the part of a fourth actor, it was stiled παράκλητον. To speak of the severall verses of Tragœdies, is *actum agere*:

[a] De Satyrica Poesi. p. 131.
[b] Laertius loco citato.
[c] Lib. laudat.
[d] Author vitæ Æschyli.

and I had rather ſpeak of the action, then the art in compoſing & yet not much, only this of their motions, termed στροφαὶ and ἀντιστροφαί. Σοφὸν, ſaies the Scholiaſt of *Pindar*, is a turning from the right hand to the left, in analogie to the motion of the univerſe τῶ παντὸς, from the Eaſt to the Weſt; becauſe *Homer* calls the Eaſt the right hand, the Weſt the left: contrary to the Hebrews, who terme the South *Jamin*, which ſignifies the right hand, and the North they counted the left. Ἀντιστροφὴ was a turning from the Weſt to the Eaſt, that is from the left hand to the right, as the Planets move. Another poſture they had in their *Epodes*, for (if it be ſo in Tragœdies, as in Lyrick Muſick, which I beleeve) to expreſſe the immobility of the earth they ſtood ſtill. They uſed *Epodes* for the moſt part at the end of the Acts, when the players avoided the ſtage. Thus much of Tragœdies; the authors of which were highly of old eſteemed of; inſomuch as after the diſmall diſcomfeit of the [a] *Athenians* in *Sicilie*, they were relieved, who could repeat ſomewhat of *Euripides*. Nay, by a law made by [b] *Lycurgus*, and eſtabliſhed in *Athens*, *Æſchilus*, *Sophocles*, and *Euripides* had ſtatues erected in braſſe for the continuation of their memory. After Tragœdies had proceeded to perfection, Comœdies were with great applauſe taught, as [c] *Horace*,

Succeſſit vetus his Comœdia, non ſine multa
Laude--

He ſaies, *vetus Comœdia*, becauſe a Comœdy was divided into three, or if you pleaſe ſo to ſpeak, two ſorts, the Old and New. I ſaid three ſorts, becauſe *the old was different from it ſelfe. The meaning is, that the old Comœdy, of which *Suſarion* (by ſome named *Sannyrion*,) was author, tended only to laughter, being without order and decencie. For the *Chorus*, now walking, now dancing about the ſmoaking Altars, ſung *ſimplex carmen*, ſome naked verſe, ſaies *Donat*. Which by *Cratinus* was redreſſed; for he ordained three Actors, and mingled with his ſport, profit, I mean for inſtruction. For under the *Democracie* it was lawfull to exagitate and propoſe for

a Plut. in fine vitæ Niciæ.
b Plut. in vit.
c Reſp. Pauſ. Atticis p. 18.
d De arte Poetica.
* Grammar. ἡ παλαιὰ ἑαυτῆς διαφέρει.

for a laughing ſtock Captains and corrupt Judges, Citizens given to bribery, and ſuch as lead a diſſolute life, naming the men upon the ſtage and fitting the Actors with vizards, bearing the ſhape of thoſe whom they intended to deride. But as the ſtate grew to an *Oligarchie*, that licence was taken away, *Eupolis* being caſt into the ſea by thoſe, againſt whom he wrote his Comœdy *Bapta*, and ſo drowned. Nay there was a law enacted not [a] ὀνομαστὶ Κωμῳδεῖν, to name any whom they wrote that Comœdy of. Of which *Horace*,

--Sed in vitium libertas excidit, & vim
Dignam lege regi. Lex eſt accepta, Chorusq́;
Turpiter obticuit ſublato jure nocendi.

But when *Alexander* of *Macedon* grew potent and a terror to *Greece*, the Poets fearing leſt any of their abuſive wit might diſpleaſe the great *Macedonian*, they changed the Argument of their plaies, and inſteed of abuſing ſtates & people they fell upon ancient Poets, or ſome part of Hiſtory not truly written, perſonating the Actors ſo as to be moſt ridiculous: [b] ſometimes ſcoffing on the ſtage at mean men, and this they termed Νέα Κωμῳδία, the new Comœdy. But afterward it was a piece of the *Athenian* policie to forbid that the people ſhould be toſſed on the ſtage, unleſſe they would themſelves, ſaies *Xenophon*; knowing that none were wont to be brought thither but the wealthier ſort, πλέσιοι, γυναῖοι, διαδήμοι. Some are of opinion that no Player came on the ſtage untill thirty or forty; I diſpute not the matter, for ſure I am that *Sophocles* taught his firſt Tragœdy at twenty eight, in which doubtleſſe himſelfe came on the ſtage. It being among the *Athenians* no diſgrace, as the *Romans* accounted it, to appeare there. [d] *Æmilius Probus. In ſcenam verò prodire, & populo eſſe ſpectaculo nemini in eiſdem gentibus (Græcis) fuiſſe turpitudini: quæ omnia apud nos partim infamia, partim humilia, atq́; ab honeſtate remota, ponuntur.* The place where the people beheld theſe plaies and paſtimes was in the market place, [e] where they nayled ſcaffolds to a black poplar tree. For in

[a] Hermog. Partiti. p. 76.

[b] Donat. Generaliter ad omnes homines qui mediocribus fortunis agunt, &c.

[c] Athen. Rep.

[d] Præfatione ad vitas. p. 2.

[e] Meurſ. Attic. Lect. l. c. ult.

ancient time they had no Theater of ſtone, only of wood,
a Theſmoph. p. 787. which they call ἰκρία.[a] *Ariſtophan.*

--Ἀπὸ σῦ ἰκρίων
Τποκλέπτω᾽ ἡμᾶς--

Theſe were built by ſome, who upon ſome conſideration of
b Caſaub. in Theoph p. 245. money admitted any to a ſeat, named therefore [b] θεατρῶναι. Once it ſeems places were not hired. But there grew great enormities and abuſes. For ſtriving to get places, there roſe wrangling and brawls, and fights; wherefore the *Attick* Senate ordained that each place ſhould be hired for two *oboli* (in the Conſulſhip of *Diophantus*, a *Drachme*, ſay ſome,
c Zenobius. whence roſe the Proverb, [c] Δραχμὴ χαλῶσα; becauſe at the eſtabliſhing of it, there fell haile.) This money they called θεωρικὸν, from θεωρεῖν, becauſe with it they did θεωνὠνεῖσθαι, buy a ſeat to behold the ſhew exhibited. Now becauſe the poor people had not to give, & ſo were deprived of the ſpectacle; *Pericles* deſiring to be popular, made a law that they ſhould
d Cont. Leocha. p. 617. n. 50. 51. receive out of the Cities revenues two *oboli* each man. [d] For the right of exacting which mony, they were to produce the authority of the *Lexiarchicall Rolles*, as appears out of *Demoſthenes*. For the diſtribution of this were certain officers appointed, named οἱ ἐπὶ θεωρικῷ. But afterwards *Apollodorus*
e ſtrove that in warre and publicke neceſſity, theſe ſummes might be imployed in military affaires, but he endeavoured in vaine; *Eubulus* in flattery to the people, enacting it capitall for any that ſhould attempt that which *Apollodorus* did;
e Olynth. 1. p. 7. which makes [e] *Demoſthenes* deſiſt, willing, yet not daring to perſwade to convert the money to the uſe of the Army. But
f Laeon apud Plut. Mor. p. 421 d. ſee the folly of them! [f] For they ſpent as much on theſe ſports as in obtaining the Maſtery and liberty of *Greece*. And the end was miſerable: for they became effœminate, and ſo
g Lib. 6. fine. put their necks under the *Macedonian* yoake. [g] *Juſtin* of the death of *Epaminondas*. *Siquidem amiſſo, quem æmulari conſueverant, in ſegnitiem torpore mq; reſoluti, non ut olim in claſſem exercitumq;, ſed in dies feſtos, apparatumq; ludorum, redditus publicos*

publicos effundunt: & cum auctoribus nobilissimis, poetisq; theatra celebrant, frequentiùs scenam, quam castra visentes. Versificatores Oratoresq; meliores, quam duces laudantes. Tuno vectigal publicum, quo ante milites & remiges alebantur, cum urbano populo dividi cœptum est. Quibus rebus effectum est, ut inter otio Græcorum, sordidum & obscurum antea Macedonum nomen emergeret, &c. Of the Theater I will say little, as also of the stage: Only that the places in the Theater were not promiscuous. For there was a distinction between the Senatours and younger sort. The Senatours was named [a]βελδπχὸν among which it is probable the Judges had the first place, as [b]*Pollux*. The seats for the youth were called Εφηβικὸν. One part of the stage was *Orchestra*, in which was Θυμέλη, either a Tribunall or an Altar. That upon all their stages there was an Altar sacred to *Bacchus*, is apparant out of *Donat*: he saies it stood on one side of the stage, before the doores, *Pollux*: who names it Αλιδὸς. There was moreover a Table called Ειλεὸς, on which before the time of *Thespis* some body ascending in the Poets place, did answer the *Chorus*. *Plutarch* thinks Θέατρον to be derived from Θεὸς, because that before the building of Theaters the ancients embracing *Musick* only for institution of youth and praise of their Gods, sung the commendation of good men, and honour of their Deities in Temples.

a Aristoph. p. 578.

b Lib. 4. c. 19. p. 202.

c De Musica 441.

LIBER TERTIVS.

CAP. I.

De Legum latoribus Atticis. Νόμοι, ἄρχοντες καὶ ἔννεάρχοι. Ψήφισμα. Προβούλευμα. *De sanciendis Legibus.*

a Lib. 2. p. 27.

AS *Justin* hath been too forward in relating the mutation of the *Athenian* government, passing by the perpetuall and decennal Consuls, and naming only the yearly: so hath he erred in the originall of their Laws, making *Solon* the father of them. But it seems otherwise. For, as b *Gerardus* hath observed, *Theseus* gave Lawes to the *Athenians*. And c *Plutarch* witnesseth, that when he congregated the *Attick* people, and constituted a *Democracie*, he reserved only to himself the government of war and custodie of the Lawes. δημοκρατίαν (θησέως) αὐτῷ μόνον ἄρχοντι πολέμου καὶ νόμων φύλακι χειροτονήσας. Adde to this, that before the knowledge of letters & writing, it was a custome among the ancients to sing their Laws, lest they might forget them, used in the daies of d *Aristotle* by the *Agathyrsi*, a people neare to the *Scythians*. Whence afterwards the rules

b Arist. Plut. pag. 67.

c In Theseo p. 8. l. 2.

d Problem. ἡμιθ. πρ. κή. fol. 189. b.

rules of Musick, for the true keeping of time, singing, & playing, are supposed to bee called Νόμοι. Neither may it bee thought otherwise, because all the notes of the [a]*Lydian, Hypolydian, &c. Dorick, Hypodorick, &c. Phrygian, Hypophrygian, Ionick, &c.* songs were distinguished by the Alphabet. Yet [b]*Plutarch* is of opinion, that they derived the word from those bounds, which the Musitians of old prescribed, for the tuning of voices or instruments, lest they should be confounded; and therefore he calls it, [c]*Idem.* Νόμοι δὲ θεσμοὶ τῆς ἁρμονίας, ἐπειδὴ οὐκ ἐξῆν παραβαίνειν καθεστῶτα νενομισμένα ἐν ἑκάστοις τάσεως. The *Greekes*, saies [d]*Cicero*, thinke the cause of this word, *jus suum cuique tribuendo*, intimating νέμειν, which signifies to distribute, because the Law gives every man his due. Thus see we, that there were Laws of yore, let [e]*Justin* say, *Nulla civitati leges tunc erant, quia libido regnum pro legibus habebatur*; That the City was without Law, because the wills of Kings were Laws. In succeeding ages, and before *Solon* too, *Draco* gave Lawes, living about the three [f]hundred and ninth *Olympiad*. His Acts, saies [g]*Ælian*, were called θεσμοί. Ἐκαλεῖτο δ' ἐκεῖνοι θεσμοί. Now θεσμὸς, by [h]*Ulpian* is interpreted νόμου ὑφηγητικὸν πῶς δεῖ νομοθετεῖν A Law giving in precept how to make a Law. And yet [i]*Aristotle* calls them νόμους, giving them this commendation, that they are not worth remembrance, but for their great severity. Which gave occasion to [k]*Herodicus* to say, that they were not the Laws of man, ἀλλὰ δεσποτικοὶ, in a double sense of the word which is also put for a Dragon. And [l]*Demades*, that they were not written with black, but bloud. For he punished every peccadillo almost with death, those that were convicted of idlenes, or stealing of pothearbs, alike the sacrilegious and man-slayers. Wherefore were they made of none effect by *Solon*. For he abrogated all, except those which concerned murther, intituled ΦΟΝΙΚΟΙ ΝΟΜΟΙ. Him succeeded * *Solon*, a man so well tempered, and equall betwixt the Commons and the Peers, that he was beloved of both

a Vide Alypium in Isagoge Musica.
b In libro de Musica.
c Loco citato pag. 437.
d De leg. lib. 1. fol. 16.b.
e Loco laudat.
f Clem. Alex. p. 226.
g Varix hist. l. 8 c. 10.
h Arg. orat. con. lept.
i Polit. 2. c. 10.
k Arist. Rhet. l. 2. c. 44.
l Plut. in Solone. p. 63. l. 2.
* Demosth. p. 70.
* His lawes continued 100 years, saies *Plutarch*, in Solone p. 66.
and afterward by little and little decayed. Ælian. Var. hist. l. 2. c. 22.
If any spake against them, he had corporall punishment.

both, having ſtill a care, leſt while he ſhould ſide with one, he might diſpleaſe the other. Whom, for his uprightneſſe, [a] *Juvenal* ſtiles *Juſtum*, and for the care of the Republique, which [b] *Demoſthenes* averres he had in all his Lawes, [c] *Ariſtophanes* termes, φιλόδημον, a lover of the people. [d] *Plato* brings him learning his Laws from a *Barbarian*: And [e] *Plutarch* tells us that he travelled afterwards into *Ægypt*. But it ſeems by [f] *Ammianus Marcellinus*, that in the making of his laws he had the approbation and judgement of the *Ægyptian* Prieſts. *Et Solon adjutus ſententiis Ægypti Sacerdotum, latis juſto moderamine legibus, Romano quoq; juri maximum addidit firmamentum.* [g] *Diodorus Siculus* relates two things brought from thence to the *Athenians* by him. Firſt, that all the *Ægyptians* were compelled to bring to the governours of the countries their names written, and by what meanes they ſuſtained themſelves; wherein if any were found falſe, or that lived by unjuſt gain, he fell into danger of life. Secondly, it was a cuſtom among them, that payment ſhould be made only with the goods of the debtor, and that the body ſhould not ſuffer. For they thought the eſtate alone to be ſubject to the creditor, the body addicted to the Cities in which they lived. Neither was it fit that Souldiers, who were to undergo hazard for their country, ſhould for uſurie be committed to priſon, or the country be in jeopardy for the avarice of ſome one man. Which induced *Solon* to make the firſt decree, as [h] *Laertius* and [i] *Plutarch* ſay, of freeing the bodies; which, if there were not wherewithall to ſatisfie the craving loaner, were compelled to ſerve. He therefore cut off all *uſe*, [k] as ſome write, or elſe [l] leſſened the burthen of it, making it more moderate by his Law Σεισάχθεια· ſo called from Σείω, to ſhake off, and ἄχθος, an heavy weight. Forgiving himſelf firſt, [m] as *Laertius*, ſeven talents; or, as [n] *Plutarch*, five. But this ſeems to have been done for the avoiding of the aſperſion caſt upon him as acceſſary to the injuries of ſome, who having an inkling of his intent, borrowed much

[a] Sat. 10. verſ. 274.
[b] Κατὰ Ανδρ. pag. 390.
[c] Pag. 190.
[d] In Timæo.
[e] In Solone p. 66. l. 31.
[f] Lib. 22.
[g] Bibliotheca.
[h] Initio vitæ Solonis.
[i] In Solone p. 62. l. 8.
[k] Plutarch. p. 62.
[l] Androtio.
[m] Loco laud.
[n] Pag. 62. fifteen ſaies Polyzetus Rhodius.

much money with hope of never making reſtitution.[a] *Caſaubon* is conceited, that this was not his firſt exloit, but long after he had ſate at the ſterne of the Weale-publique. Yet it ſeems probable; there being no more compendious way to make a man popular, then to give liberty to the common people. Which he, to bring an innovation of Laws, did willingly invent; and they afterwards lovingly accepted. For in teſtimony of their approbation, they kept a feſtivall named [b] Σεισάχθεια Here likewiſe may you obſerve the ancient flattery of the *Athenians* towards their owne vices, putting gilded names on thoſe things, which themſelves were aſhamed of, calling [c] πόρνας, ἑταίρας; φόρυς, σωτάξις; φυλακὰς, φυγὰς ἀπὸ πόλεων, δεσμωτήριον οἴκημα, &c. as our blades name drunkenneſſe good fellowſhip; whores, ſhee ſinners; and nigardiſe, thriftineſſe; ſpringing from this root of *Solons*, who called χρεῶν ἀποκοπὴν Σεισάχθειαν. [d] To theſe Lawes two ends were propoſed, mutuall commerce, and direction of behaviour towards the ſtate. [e] To curbe wickedneſſe, and unjuſtice; and to puniſh offenders that they may be bettered. And although they were the ordinances of *Draco* and *Solon*, yet may wee fitly call them the *Athenian* Civill Law. Each Citie, as [f] *Juſtinian* teaches, giving a denomination unto her Statutes. *Nam ſi quis velit Solonis vel Draconis leges appellare jus civile Athenienſium, non erraverit.* They were engraven in tables of wood called ἄξονες, triangular, if we may beleeve the [h] Scholiaſt of *Ariſtophanes*, who quotes *Ariſtotle* and *Apollodorus*, witneſſing that they were called κύρβεις, alſo ἀφ' ὃ τὸ κανόνας κορυφοῦσθαι εἰς ὕψος ἀναπεταμένους, from the elevation. [h] Some are of opinion that the rites pertaining to the gods, and their worſhip were written in the *Cyrbes*, and Lawes belonging to men in the *Axones*. *Apollodorus* ſayes that all decrees are called *Cyrbes*, becauſe they were written in ſtone; and ſo ſet up, [i] which from their ſtanding, were termed στῆλαι. I know that decrees, merits, praiſe and diſpraiſe too, were written in ſtone. Whence [k] λογὰς στηλιδώπικὰς may be put for a Treatiſe

[a] In Laert. p. 14.

[b] Plutarch. p. 62. l. 43.

[c] Plutarch. loc. laudato.

[d] Demoſt. p. 477.

[e] Idem p. 484.

[f] Inſtitut. l. 1. Tit 2. Sed jus quidem civile ex unaquaq; civitate appellatur, veluti Athenienſium

[g] Sch. Apollo. Rho. Argo. 4.

[h] In Avibus pag. 604.

[i] Vide Plut. pag. 66.

[k] ἀπὸ στάσεως.

[l] Vide Nonnum in Nat. στηλ. α.

tending to a mans disgrace. But this by the way. These Tables were kept in the *Acropolis*, translated afterwards to the *Prytaneum* by *Ephialtes*, where to the dayes of [a] *Plutarch*, some reliques of them were to be seen. The *Autographon*, or copy written with his owne hand was not removed, but those that were transcribed by them. Because in matters of doubt and controversie they might have recourse unto them. *For the distinction of which, some think that ὁ κάτωθεν νόμος is used in *Demosthenes* for that in the *Prytaneum*. Others for the Law in the lower part of the table; but to me it seemes improbable, for then the number of the table ought to be cited; and indeed, one Table sometime could not containe a Law. For we read in [b] *Plutarch*, that the eight Law was cut in the thirteenth Table. I am not averse from the guesse of *Petitus*, who supposes the Orator to meane the Law which afterwards he quotes; not ignorant of the opinion of some, who think that it is to be understood of the under line. For the Lawes being written βυστροφηδὸν, *converso sive retrogrado literarum ordine*, saies [c] *Silburgius*; which [d] *Pausanias* explaines, ὅθι τὰ λαιὰ ἐπὶ δεξιῶν, from the right hand to the left, [e] or more significantly, Ἀπὸ τοῦ πόρρω τοῦ ἑτέρου ὅθι φέρφ τὸ ἔπος τὸ δ' ἑξῆς, ὥσπερ ἐν διαύλῳ δρόμῳ. When the second verse begins at the end of the former, as in the race which they call *Diaulus*, or if I shall speake neerest to the word, as husbandmen turne their Oxen when they plough, as for example.

ΕΚΔΙΟΣ ΑΡ
ΥΘΞΞΨΩΧ

See those that have written of divers waies of writing.

They therefore take the lower, that is turned, ὁ κάτωθεν νόμος. After this manner were the Lawes written, and doubtlesse there were some customes as strong as Lawes. For although the *Lacedæmonians* governed by tradition of custome, and the *Athenians* by written statutes, as [g] *Josephus*, yet surely had their customes great force, insomuch as [h] *Aristophanes* uses νόμος for ἔθος. Ἀρχαῖ νόμῳ κεχθήμεθα. [i] *Scholiastes*. νόμον νῦν τὰ πάντα τὰ γεγραμμένα φησὶν ἀλλὰ τὸ ἔθος. So did the [k] *Greekes* divide

[a] In Solone pag. 66.

*Pollux. l. 8. pag. 408.

[b] Solone pag. 63. l. 37.

[c] In Pausaniam p. 426.
[d] In Eliacis pag. 174.
[e] Eodem lib. pag. 165.

[f] Contra Appionem. Vide Justinianum. Inst. l. tit. 2.
[g] In Avibus pag. 576.
[h] Pag. 577.
[i] Vide Justinianum.

divide their Laws into ἔγγραφους καὶ ἀγράφους, written and unwritten. The unwritten, *sine scripto jus venit, quod usus approbavit*, use. The [a] Interpreter of *Sophocles* thus. Νόμος ἐστὶν ἔγγραφος μὲν σωτηρία, σωτηρία δὲ ἄγραφος νόμος. A Law is a written custome, and a custome an unwritten Law. Besides these there were decrees, which they termed ψηφίσματα, *psephismata*, a word used by [b] *Cicero*, nothing different, ψηφισμάτων δὲ διαφέρουσιν οἱ νόμοι. [c] *Demosthenes*, who meanes in vertue and power. For they differ much. [d] A Law maintaines justice once found, common for ever. A *Psephisma* follows the necessity of the time, as it differs in events: it directs not warlike affaires, but is applied unto the occasion of arms, and as lawes can be abrogated, so degrees changed. And here ought we to note, that no decree is greater then a Law. Of decrees there were two sorts; [f] τὰ βουλῆς ψηφίσματα, such as the Senate by it self established, which were but of twelve months continuance; to the confirming of which, the people were not convocated, or their consent required, termed [g] προβουλεύματα, which *Demosthenes* proves to be ἐπέτεια *Ulpian* ἐνιαύσια. Like to the edicts of the Roman Prætors which lasted but a yeare. [h] *Cicero*. *Qui plurimum tribuunt edicto, Prætoris edictum legem annuam esse dicunt.* In other decrees the opinion and good liking of the people was asked, for the giving of the authority unto them, which endured in force a longer time. [i] τὰ δὲ ὑπὸ τοῦ δήμου γινόμενα, καὶ πλείονα μένει χρόνον. And therefore wee may easily know a *probuleuma* from a decree of the peoples confirming, by this observation. Ἔδοξε τῇ βουλῇ only, gives us to wit, that it is a *probuleuma*. Ἔδοξε τῷ δήμῳ, in the beginning of a decree, shewes it to be ψήφισμα παρὰ δήμου κύρος καὶ νόμισμα. The Senate alwaies sate in consultation about that which was to be enacted, whether any damage might accrue to the State by it or no, the Law commanding that no decree should go forth without deliberation. [k] ἀπροβούλευτον ψήφισμα μὴ εἰσιέναι ἐν τῷ δήμῳ. Which done, the *Prytanes* took certain Tables and wrote on them,

[a] In Ajacem Locarium.
[b] In Orat. pro Flacco.
[c] Cont. Lept. p.296.
[d] Aristides. Tom.2.p.30.
[e] Demosthen. pag.416.
[f] Demosth. κατ' Ἀειστοκράτους.p.417.
[g] Ulp.in Dem. p.418.
[h] In Verr.1.
[i] Ulpian loco laudato.
[k] Ulp.in Arg. Orat.And. p.181. Vide Dem.p.182. n.10.vi Plut. Solone.p.63. l.31.

Such or such a day, about such a time there should be an assembly to consult of these and these affaires: and this they called[a] προγεγραμμα. When then they were assembled, and the people purified, the decree was read; which if the people allowed of, stood; if not, decayed. It was forbidden that any should raze out a Decree of any Table. And he was brought in question of life, who should presume in making a decree to pretend a fallacie. Now because future time might haply perceive some inconveniences to arise by oversight in their Lawgiver, and that as abuses should happen, which in his dayes were not discerned, so there would be a necessity of making new statutes: It was ordained therefore that every yeare there should be ὅπως ἐπιεικεστερα νόμοι, which[b] *Ulpian* expounds διάσκεψις ὅ, τι δεῖ ποιεῖν περὶ τῶν νόμων. A consideration of what ought to be done concerning the Laws.[c] The manner was thus: Every eleventh day of July in the assembly after the Crier had made his prayes, as his fashion was, and shall anon be spoken of, the Laws were read over in order. First, those which concerned their Senate, next the weal-publique; and thirdly the nine *Archons*, & afterwards the other Magistrates. Then was it demanded if there were Laws enough for the Senate, and so for the Common-weale, &c. If any of the Laws in force were to be abrogated, it was adjourned untill the last of the three daies of the 3 Convocations. On which the *Prytanes* appointed for the reviving and reciting of the Lawes, were to take the matter in hand. The *Proedri* chiefe of the Assembly, were to[d] acquaint them with it. Five men at the first meeting were chosen out of all the *Athenians*, who should patronize the Law to be abolished; and according to the judgement of the *Nomotheta*, chosen out of the Councell of five hundred, was the businesse carried, that the Lawes should be of none effect, or full strength. Whosoever would bring in a new Law, was to write in a Table,[e] εἰς λευκωμα, *Demosthenes*, the forme thereof, and set it up at the Statutes of the *Heroes* before spoken of,[f] παρὰ τὰς ἐπωνύμους, which

[a] Sch. in Naz. συλλ. α. pag. 55. vid. Ulp. in Dem. p. 240.

[b] Demost. p. 445.

[c] Vid Dem. loco cit.

[d] χρηματίζειν Demosthen. Ulp. expounds ἀπαγγέλλειν to report.

[e] Cont. Timocr. p. 446.

[f] Demosth. p. 297.

which ſtanding in a place conſpicuous, that ſome certaine daies before the Seſſions, any Citizen might read what was to be handled; and if any ſo pleaſed, he might at the propoſall of the Law declare his mind either for, or againſt it, as at the preferring of *a Bill in our High Court of Parliament*, where it is not denyed any *Burges* or *Knight* of a ſhire, to ſpeake his opinion *pro* or *con*, either with any whole Bill or ſome part thereof, or in oppoſition to it, or ſome one clauſe. Provided likewiſe that hee, who attempted to enact a new Statute, ſhould take care for the diſanulling of the old, that might contradict it, otherwiſe he came within the compaſſe of παρανομίας γραφὴς, a writ of *Tranſgreſſion of the Lawes*: which was of two ſorts. Firſt, when time is not obſerved in writing them, [a] πρὸ τοῦ ἀπειθμὸν χρόνον. Next when one is made that is adverſe to a former. And if it ſo hapned, that any perſwaded the people to make a Law that was not commodious to the weale-publique, hee might bee queſtioned within [b] a yeares ſpace; [c] but if the time was expired, he could not. [d] Nay, they ſlew *Eudemus*, a *Cydiathenian*, for bringing in a Law they liked not; ſcarce different in that one example from the *Locri*; among whom, he that would propoſe a Law, ſhould doe it, his neck adorned with a halter, that if his requeſt pleaſed not, he ſtreight way powred out his ſoul under the hands of the hangman. Their Orators, which are called [e] δημαγωγοὶ, becauſe they lead their people with their Rhetorick and flattery, wrote Laws and decrees, as we learn out of [f] *Demoſthenes*; and therefore are they deciphered by [g] *Athenæus*, οἱ λέγοντες καὶ τὰ ψηφίσματα γράφοντες.

[a] Ulp in Dem. p. 297.
[b] Dem. Orat. Arg. con. Leptinem.
[c] Dem. p. 419.
[d] Idem p. 468.
[e] Gellius l. 3. c. 13. Iſ. Caliſtratus Athenis Orator fuit, quos illi. δημαγωγὸς appellant. Livie Dec. 4. of Athens, ubi Oratio plurimum poller, favore multitudinis alitur, Ulpian. δημαγωγὸς ὁ δήμου ἄρχων.
[f] Pag. 468. n. 225.
[g] Dipnoſ. l. 2.

CAP. II.

De Comitiis. Κυρία & Σύγκλητος Ἐκκλησία, &c.

THE Aſſemblies were called by the *Prytaneis* foure times in five and thirty dayes. [f] In the firſt they confirmed

[f] Pollux l. 8. c. 9. Sect. 7. pag. 398.

med the Magistrates in their offices, if all things were managed well by them, otherwise they put them out. They heard publick causes, looked into confiscate goods, and possessions left by inheritance. In the second, any one with leave might freely speake of private and publique affaires. In the third, they gave audience to Ambassadors, who before ought to deliver their letters to the *Prytaneis*. In the fourth, they treated of holy things, such as belonged to their Gods and worship of them. The first meeting was the eleventh day of the *Prytanea*; the second, the twentieth: the third, the thirtieth: the fourth, the three and thirtieth. I finde a difference between the [a] Scholiast of *Aristophanes* and *Ulpian* in the daies on which they came together, one making the first day of the Moneth to be the day on which the first assembly was, the other the eleventh of the *Prytanea*, which seems truest. And whereas they both write that every month there were three lawfull assemblies, to wit, on the first, tenth, thirtieth; or tenth, twentieth, thirtieth, we are not so to reckon them, but according to the *Prytanea*, it being the *Prytanes* charge to congregate the people. They seem to have been called Κυρίαι Ἐκκλησίαι, because in them they did κυρῶν ψηφίσματα, establish decrees, as the [c] Scholiast of *Aristophanes*. Other assemblies there were which are termed [d] σύγκλητοι, when war, or any sudden accident troubled the State, then the people were called together over and above those four times in a *Prytanea*. They are styled σύγκλητοι, because the people of their owne accord met on the other dayes; but when they would have a Convocation some went about the City and called them. There is likewise [e] κατακλησία, when they were summoned out of the fields to go to the Assembly. It seems to me that the Crier in the streets on their lawfull assemblies gave some token when they should hasten; and so much [f] *Aristophanes* witnesses bringing in the women speaking that it is high time to be stirring, because the Cryer δεύτερον κεκόκκυκεν had cryed the second time. And indeed need there was of some warning

[a] In Achar. p. 371.
[b] In Dem. p. 445.
[c] In Achar.
[d] Ulp & Sch. Arist loc. laud.
[e] Poll. p. 405.
[f] In concionantib p. 725.

warning and compulsion too; for so slow were they in comming to assemblies, that the *Logistæ* were fain to thong them to the meetings, as the Schol. of *Aristophanes* on these words [a]Τὰς δ' ἴμαντας ἐν λευρῶν. Sometimes they tooke a rope, and dying it with red earth, they sent two slaves into the market place, who should one of the one side of the way, & the other of the opposite, pursue the people, & to whose chance it fell to be marked with the paint, paid a certain peece of money. Hence in the [b] Comœdian--Κἄτω κἀνω τὸ χρυσίον φεύγεσι τὸ μεμιλτωμένον. Up and down they shun the cord stained with Vermilion. And again-ἡ μίλτος ὦ Ζεῦ φίλτατε γέλων παρέσχεν ὡς περσέρραινον κόκκῳ. *Jupiter*, the red earth which flew about made laughter. [c] Sometimes would they take Hurdles, and barracado all the streets except those that led to the *Ecclesia*: Sometimes take away all their saleable wares which they brought into the market, lest peoples intent on their traffique should absent themselves from the Assemblies. Whē they had met oft-times the company would be dismissed at some prodigious sign, as thunder, lightning, tempest, and the like, which they called [d] Διοσημεία, [e] and earthquakes, or other occasions, deferring the Assemblies meeting untill the next day. When they were come together, and the Senate ready to sit, one man sacrificed; which rites were called [f] Ἱσιτήρια, because they were done at the entry of the Councell. [g] *Ulpian* προηγεῖτο δὲ ἱσιτεύσων τῆς βουλῆς ὁ τὰς θυσίας ποιούμενος. I will not justly say that it was the purification made with a young pig before the bench was sate; and yet I may presume to averre it; the Grammarian that interprets [h] *Aristophanes* witnessing that immediatly preceding the Sessions this custome was observed by one, who they named Θειοπάρχος, from θεῖα, τὰ καθάρσια, which signifies cleansing, because by that he purged the Assembly, Theater, and congresse of the people. After they were sate, [i] the Cryer did pray for the good of the people, [k] & cursed those who should offer to deceive the Senate or people. After this, he spake with a loud voice

[a] In Achar. p. 406.

[b] Aristoph. Achar. p 371.

[c] Schol. Arist. loco laudato.

[d] Vide Arist. p.379.

[e] Plut. p.386. l.7. & 384. l.34

[f] Demosth. Παραπ. p.241.

[g] Vide & Ulpian. p.351.

[h] In Consc. p.728. A.

[i] Demosth. Παραπ. p.213.

[k] Id. p.418.

[a] Alcidamas Aristoph. p. 372. Diod. Sic. l. 15.
[b] Demosth. p. 29. Æschines contra Ctes. initio.
[c] Philippic. 1.

voice,[a] Τίς ἀγορεύειν βούλεται; Who will make a speech; whereupon one of the [b] Elders arose that gave his verdict, it being not permitted to any to utter his opinion before the reverend hoary head had spent his judgement. Whence by [c] *Demosthenes* they are stiled οἱ γεωθόντες, those that were wont to orate. After they had finished their sayings, others had leave to declare themselves. Neither must we omit the fashion they had to exclude all private men from their assemblies sometimes, when the Senate alone sate, or the *Areopagitical* Councell; sometimes to debarre all servants, strangers, and men deprived of their liberties from their convents, which at other times they admitted, and then was it called[d] ἀπεφαδίμνιον θέατρον καὶ τὸ θεατρίζειν, an open Theater to all commers. The place of meeting was called Πνὺξ, *Pnyx*, ἀπὸ τῆς πεπυκνῶσθαι ἀνθρώπους ἐν αὐτῇ, from the frequent concourse of people there. It stood on a rock, and therefore by *Aristophanes* is called πέτρα. 345. Sch. ὀρνιθ. γελῶ. There was a stipend for them that came to Assemblies, as you may see in *Demosth. contra Timoc.* And ἀεὶ βοιῶν ἕνεκα ὀκμάζει. Because they might bee at leasure without damage. *Aristot. Pol. l. 1. c. 13.* They assembled also in *Piræus. Ulp. in Dem.*

[d] Plut. p. 552. L. 11. 17.

CAP. III. SECT. I.

De Tribunalibus Atticis, & primum de Senatu Πεντακοσίων.

WHen the mutinie between the faction of *Megacles* and *Cylo* disturbed the *Attick* commonwealth, *Solon* perswaded the people that those, whom for their audacitie in drawing away the suppliants from the Altars they named ἐναγεῖς, should undergoe judgement, there were chosen [e] three hundred men, ἀριστίνδην, according to their worth, to sit upon the case. But these were not a perpetual judicatorie. For when the people murmured at the cutting off of the

[e] Plut. Solone, p. 60. l. 31.

usury

uſurie money, then was the Grand Councell ordained; out of every Tribe, which were then but foure, an hundred choſen, who by their advice ſhould direct the people in thoſe things which were to be handled, leſt any thing ſhould be inducted, or propoſed to the Aſſembly, without due conſideration. Who from their office in a *Democracie*, [a] *Ariſtotle* ſaies are more properly called Προβουλοι, but where the Rout rules, Βουλή. But when *Cliſthenes*, who by *Plutarch* is termed ὁ καταγηράσας τὴν πολιτείαν, had augmented the number of the Tribes from foure to tenne, eighty ſix yeares after *Solon's* Lawes were received, he made the number five hundred, taking fifty of every Tribe, which doubled ten times make up the ſumme. This Councell by *Ariſtotle* is deſcribed ἡ μάλιστα κυρία πάντων. *The Miſtreſſe of all the reſt*, and I am not of opinion that ἡ ἄνω Βουλὴ in [b] *Plutarch*, is to be underſtood of the *Areopagus*, as if that were about the Senate, but as inſtituted firſt by *Solon*, and ſo related by the Author. And yet I know [c] one writes, *Tam dignitate, fama, quàm officio, ſecundum poſt Areopagitas locum obtinuere.* To this Councell none was choſen under thirty yeares of age, which time is ſtiled Βουλικὴ ἡλικία by [d] *Libanius*. And doubtleſſe [e] *Plutarch* juſtifies it, ſpeaking that *Demoſthenes* wrote his Orations againſt *Androtio*, *Timocrates*, *Ariſtocrates*, ὅπου τῇ πολιτείᾳ προσελθεῖν οὐκ ἐξῆν. when he had not attained to the managing of ſtate buſineſſe, becauſe he wanted two or three of thirty yeares. Agreeing to this is [f] *Juneus*, who ſaies that *Solon* admitted none very young, though very wiſe to Magiſtracie or Councell. Nay the [g] Scholiaſt of *Ariſtophanes* tells us, that green heads were not permitted to ſpeak publickly. The Law prohibiting any to attempt it under forty, or as ſome ſome ſay (which is trueſt) thirty, on theſe words:

Κἀγὼ παρθένον δὲ τὴν ἐμὴν, κοὐκ ἐξὸν πω μοι τυχεῖν.

Which to be otherwiſe underſtood by ſome, is not hidden from me. They were called likewiſe Ηλιασταὶ, as well as Πεντακόσιοι, and their Tribunall Ηλιαία, from the word [h] ἁλίζεσθαι,

[a] P. lib. 6. c. 8.

[b] In Solone p. 63.

[c] Poſſardus. fulſe, for Pauſanias calls it μίσθιον. in Att. p. 27. l. 15.

[d] In Arg. orat. com. Androt.

[e] Vita decem. Rhet. p. 378.

[f] Stobæus ſerm. 112.

[g] In Nub. p. 157.

[h] Ulp. in Demoſ. p. 445.

which signifies to throng together, because the people were frequent there. But the more probable reason is, [a] ἐν τῷ ὕπαιθρον εἶναι τὸν τόπον καὶ τὸν ἥλιον ἐπιπίπτειν, because the place was open and exposed to the Sunne. And in respect of this [b] *Aristophanes* makes that cold conceit branded by *Didymus*, Εἶτα κατ' ὄρθρον, ἡλιάσεις πρὸς Ἥλιον, *In the morning thou shalt* ἡλιάζειν in the sun shine. At their admission they had this oath given them. [c] ψηφιοῦμαι κατὰ τοὺς νόμους, &c. *I will give sentence according to the Lawes, and decrees of the people of Athens, and Councell of five hundred; I will not consent to bee a Tyraut, or bring in an Oligarchie: Neither shall my approbation be to any that will dissolve the Democracie of Athens by speech or decree. I will not cut off private use, or suffer a division of the Athenian lands or houses. I will not bring backe exilde men, or those that are condemned. I will not thrust out of the citie any innocent against the Lawe and Statutes of the Athenians and Senate of five hundred: neither by my selfe or suffer any other. I will not create a Magistrate, who hath not given an account of his former office, whether of the nine Archons, or agents for the holy things, or they, who at the same day are chosen with the nine Archons by lot, Ambassadors and assistants. Neither shall the same man beare the same office twice, or two in one yeare. I will not take gifts for judgement, neither my selfe or other for me, or others with my privacy, by fraud or deceit. I am not younger then thirty. I will heare both parties, the accuser and defendant alike. I will passe judgement aright on the thing prosecuted. I sweare by* Jupiter, Neptune, Ceres. * There is also another oath which they took; some clauses whereof, we have left in record. *To ratifie the Lawes of Solon. Plutarch in Solone, pag. 62. To give counsell for the best of the people. To advise according to the Lawes. I will not binde any Athenian who shall give three sureties of the same revenues, unlesse for treason, or hee conspire the subversion of the state popular, or buy custome, or be engaged, or gather publique money and not pay it. I will sit in that order which lot shall direct me to. I will not permit any unlesse banished*

[a] Ulp. loc. laudato. vide & Aristoph. Sc. p. 436.

[b] Pag 486.

[c] Dem. Orat. cont. Tim.

* If I transgresse any of these, let mee and my house perish, but if I faithfully keep them according to my oath, let us bee happy and prosperous. Dem. p. 470.

niſhed, to be accuſed or impriſoned for what is paſt. This laſt was made after the driving out of the 30 Tyrants, when [a] *Thraſybulus* gave them to oath μὴ μνησικακήσειν, not to remember ancient wrongs, which they call ἀμνηστίαν. The authority of this Councel was great, for it handled cauſes of war, tributes, making of Lawes, civill buſineſſes and events, affairs of confederates, collections of money, performance of ſacred rites, accounts of offices diſcharged, appointing keepers for priſoners, and διαιτασία of Orphans, as *Xenophon.* Reſembling our Court of Parliament in *England*, by whoſe conſent all Laws are abrogated, new made, right & poſſeſſions of private men changed, formes of Religion eſtabliſhed, Subſidies, Tailes, Taxes, and impoſitions appointed, weights and meaſures altered, &c. As not unlike alſo the *Venetian Gran Conſiglio*, or Senate, of which the *Contarene.* [d] *Tutta la cura del governo della Republica appertiene al Senato, &c.* The whole maner of the Commonwealths government belongeth to the Senate. That which the Senate determineth is held for ratified and inviolable. By their authority and rule is peace confirmed & war denounced. The whole rents and receipts of the Commonwealth at their appointment collected and gathered in, and likewiſe laid out againe and defrayed, &c. In a word, I may ſay of theſe five hundred, as [e] *Budæus* of the Parliament of *France*: *Ampliſſimam eam curiam cauſarum, omne genus diſceptatricem juſtam ac legitimam eſſe*, that that Court is moſt ample, and juſtly and equally decided all ſorts of controverſies whatſoever. [f] To their charge was committed the making of new ſhips, for which at the yeares end they were to be rewarded by the people. To this alludes [g] *Ariſtophanes.* Ποδαπὸ τὸ ψῆφος, Εν ὅστιν αἱ τειήρεις κληδί. Επ. Μὰν Ηλιαστάν. [h] Without their conſent could the people doe nought, as indeed they made not any thing *ſanctum* againſt the peoples wills. Hence in [i] *Demoſthenes*, Τ' βελὴν ποιήσας & τὸ δήμε κύριον. In teſtimony of their prehéminence are they termed [k] Κύριοι ψήφε. and [l] οἱ ἀεὶ κύριοι. The Lords of ſentence. In

a Vide Xenoph. in Ἑλλην. Cic. mit. Phil. 1. Velleium Paterculum. l. 2. p. 84. Ariſt. Sch. in πλ. Æſchin. cont. Ctſiph.

b Athen. Rep. pag. 407.

c See Sir *Th. Smith* in the Commonwealth of England.

d As Eranchirio Andrimi hath tranſlated it. lib. 3. fol. 34. B.

e In Pandect. Prio p. 298.

f Dem. p. 386.

g Avib. p. 546.

h Sch. Ariſt. p. 93.

i Pag. 234.

k Demoſth. περὶ Αλο.

l Idem περὶ τὰ Meſſ.

time of warre they would ſend Commiſſions to their Captaines, as they thought requiſite. [a]Such as in the battaile between the *Lacedemonians* and their country-men in *Tanagra*, where fearing leſt *Cimon* baniſhed by *Oſtraciſme* ſhould betray them to the *Laconians*, they ſent to the Commanders not to entertaine him in the Armie. This honour was not during terme of life, but every yeare changed. *Apoſtolius.* ἡ μὲν τοῦ πεντακοσίων καθ' ἕκαστον ἐνιαυτὸν κληρωμένη βουλή. Which *Anonymus in Arg. Orat. contra Androt.* expreſſes by καθ' ἑνιαυτὸν διαδέχεσθαι. The manner of chooſing them is this. [b]The chiefe of every Tribe, on an appointed day before the beginning of the month *Hecatombæon*, brought the names of all their Tribe that were capable of this dignity, and caſt them written into a veſſell, and into another they put an hundred white beans and all the reſt black; then drawing out a name, and then a beane, to whoſe chance the white beane fell to be extracted with his name, was deſigned Senator. This they did when they had but foure Tribes, and ſo foure hundred Senatours. But when they had ten Tribes, there could be but fifty white beans, to the making up of the tenth part of five hundred. This differs not from the election obſerved by the [c]*Venetians* upon the fourth day of December, when the names of all the young men that have not by lot obtained the right of citizens, nor paſſed twenty five yeares old, are put into a pot, and carried unto the Prince, & there the ſame ſet before the Councellors, with which there is another pot, wherein are round bals equall with the number of the names written in the firſt, every one having his marks, the fift part of theſe bals is guilded with gold, the reſt with ſilver. The Prince taketh out of the firſt pot the ball, which if it be of the golden ſort, the young man whoſe name is drawn, is preſently admitted to publique authority, they to whom the ſilver chance, loſe it for that time, expecting it the enſuing year, unleſſe in the mean ſpace they accompliſh twenty five, at which age all the young Noble men partake of

a Plut. in Cimon. p 356. l. 50.

b Verbo Emmius in Deſcript. Reip. Athen.

c Contaren. l. 1. fol. 11. b.

of the Cities liberties. So every year the fifth part of the yonkers is choſen to give voice with the other Citizens. The uſe in chooſing I deem the ſame, & ſhall untill I find authentick writers contradict it. But the number, as augmented by *Cliſthenes* according to their tribes, ſo by his ſucceſſors. For when they added two, the number was increaſed 100, by reaſon of the Tribes *Antigonis* and *Demetrias*, after named *Attalis* and *Ptolemais* in honour to the Kings of that name which were benefactors to the State; [a] ἦσαν δὲ τῶν βουλῶν πεντακόσιαι ἕκαστοι, ἑξακόσιαι ἐποίησαν. [b] Out of theſe were their Judges choſen, but ſuch as were about threeſcore yeares old. For although juniors were admitted into this company, yet none judged under that age. εἰσήρχοντο μὲν εἰς τὸν ἐνιαυσίαν, οὐκ ἐδίκαζον δέ. To theſe was any buſineſſe referred, of which the Senate and people were in ſuſpenſe what to determine. [c] *Ariſtoph.* Επὶ δ' ἡ Βουλὴ χ' ὁ δῆμος ὅταν κεῖναι μία πραγμ', ἀποροῦσ' ἐψηφισαν τοὺς ἀδικοῦντας τοῖσι δικασταῖς δοῦναι. When the Councell and people are in doubt how to judge a great matter, They decree to deliver over the guilty to the Judges. And no marvell. For the office of a Judge is κύριον κεῖνον, prerogative in ſentence, ſaies [d] *Ariſtotle*, that is, to ſtate thoſe Queſtions which the Law hath not decided. The order of their giving ſentence before the third yeare of the ninety ſecond Olympiad I know not. Afterwards they ſate by turne in their own Tribes every one as his lot fell. For there being formerly ten Tribes in *Athens*, they choſe out of each five men, and to which one of them the chance happened, he ſate Judge. I cannot ſay that the manner of election was like that of the [e] *Syracuſans* concerning the Prieſt of *Jupiter*, who taking the names of ſo many as were nominated, and caſting them into a pot, created him, whoſe name ſhould firſt be drawn of that ſacred function. But of our owne muſt I ſpeake. [f] When then they were appointed, they met, every of them bringing with him a Table and a wand on which was written a letter that did betoken ſome Judicatory, (for there being ten Tribunals

[a] Stephanus περὶ πολ.
[b] Ariſt. Schol. p. 37.
[c] In Vſpis p. 471.
[d] Pol. l. 3. c. 13. περὶ οὗ ἐνίοις ἀδυνατεῖ τὸ διορίζειν.
[e] Cic. in Verrem. Act. 3.
[f] Ariſtophan. πολ. p. 30.

every one of them was noted with a red letter, A, B, Γ, Δ, E &c. to K. over the dore) time calling them to sit, they drew lots, and he to whom A. was taken out, sate in the Court noted with A. and B with B, and so to K. This done, they shewed their lot to the *Præco* of the Judicatorie, who gave them their Wand & Table. This they did, lest any should rashly attempt to sit, and pervert Justice. I know not whether I may better call that rod of authority a wand or staffe: because that [a] Βακτηρία καὶ ῥάβδος τριβώνιον ἢ τριώβολον, was as a proverb used in derision of the Judges. [b] This staffe at the daies end they brought to the *Prytanes*, who gave them their wages; But the [c] Scholiast teaches us otherwaies, saying that the *Demagogi* paid them, it being manifest out of *Cleon's* words the Orator, Ὦ γέροντες Ηλιασταί, φεδίτορες τριωβόλου, Οὓς ἐγὼ βόσκω-- *Judges which I feed.* Their pay was not alwaies the same, ἔχ ἴσα ἦν, [d] saies the Interpreter of *Aristophanes*. First they had *obolum*, which *Calistratus*, surnamed *Parnytes* was author of. Hence the proverb [e] Ὀβολὸν δὸς Παρνύτῃ. Afterwards it was augmented by *Callicrates*, and from him grew the word τὰ Καλλικράτεια, it may be for a pretty summe of money. Nay it changed, for now I read of Ὀβολὸς Ηλιαστικὸς one, and anon τριώβολοι three, a [g] *Drachme* to two. And therefore may wee conclude that it was sometime more, sometimes lesse. Thus having spoken a little of their Judges, I proceed to their cases of Law, in which I shall adde.

a Suidas proverb.
b Sch. Aristop. πλ. 30.
c In Equites. pag. 301.
d In Nubes pag. 174.
e Appendix Vaticana.
f Zenobius.
g Sch. Aristop. pag. 487.

When any had received wrong in *Athens*, it was their custome to make their cases known to a Magistrate, whose office it was to report to the Judicatory. And this they did by a Table in which was written, [h] Κατηγορῶ τόδε καὶ προσδείκνυμι τόδε τὸν διὰ τὸ δεινὸν εἰς τὸ δικαστήριον. *I accuse H. B. and cite him to the Court by W. N.* not unlike the *Romans* proceeding, who brought the name of the delinquent to the Magistrate before the accusation, to which *Plautus* alludes: *Quoq; ad tres viros vestrâ, ibi nomina Faxo erunt* - When [illegible] was given up, the Magistrate asked the [illegible] whether he had witnesses

h Ulp in Dem. p. 343.
i Asinaria Act. 1. p. 54

witneſſes and would proſecute the matter, who anſwering that he intended it, had thereupon authority to ſummon the Defendant to his appearance, and this he did either by himſelfe, or other, called therefore κλητὴρ, [a]for κλῆσις is ἡ ἐν ᾗ δίκης εἰσαγωγή, a bringing into ſuit. καλεῖν δὲ εἰς δικαστήρια. The word ſignifies a witneſſe alſo. For when they warned any to the Tribunall, they bad any that ſtood by to teſtifie that they had admoniſhed them. [b] Κλητῆρες δ' οἱ καλοῦντες εἰς τὸ δικαστήριον πάντας· σημαίνει δ' ἡ λέξις καὶ τὸν μάρτυρα. You may uſe κλητὴρ for an Apparator, Sergeant, Bailiffe, or the like. Sometimes they would run ſtreight to the Court, as it were headlong, in [c] *Demoſthenes* his phraſe, ſometimes the Suiter would forthwith draw the Defendant, if he were loath to come, as you may ſee out of [c] *Ariſtophanes*, Κἄθ' ἕλκον αὐτόν. But if the party could put in two ἀξιόχρεως, ſufficient baile, he was diſmiſſed. Hence in the [d] Comœdian. Ἀλλ' ἐγγυητάς σοι κατα-ϛήσω δύο Ἀξιόχρεως *I will procure thee a couple of able ſureties.* Sometimes they would appoint a day of appearance, that might be a weeke or more, after the *vocationem in jus*, at which time if the Defendant were not perſonally at the Judgement ſeat, he came within compaſſe of Ἐρήμου *a Writ of Eremodicium*, refuſall to come in and anſwer. Which was avoided by ſuing for a ὠὴ ἧσα in tenne daies after. For when the party to defend was abſent, hee was condemned *indicta cauſa*, ſo [f] *Budæus* expounds ἐξ ἐρήμου καταδικασθῆναι, by this therefore the caſe was renewed, and ſtood as at firſt, the ſentence that before paſt, being made of no force; and for this was it termed ὠὴ ἧσα, ἐ ὅτι πρότερον δικᾶσθαι ἔδοξε, ὕστερον εἰς τὸ ὠὴ ἔδ' ἀπέβησατο, *becauſe in the beginning it ſeemed to carry ſome power, but at laſt was nothing.* The buſineſſe then made a new, the party that was caſt by an ἐρήμου, after that he had obtained a ὠὴ ἧσα, was [h] within two Moneths to ſet the Law on foot, which they terme ἀνάκλησιν δίκης, or elſe the ſentence given before was ratified. Whoſoever ſhould offer to call any man to the Court, unleſſe upon good grounds, was liable

[a] Sch. Ariſt. 190.

[b] Sch Ariſt. p.442.

[c] ὅτι κεφαλὼν εἰς τὸ δικαστήριον βαδίζειν. p.596.n.17.

[d] In Veſpis pag.487.

[e] Ariſt. Concio.p.755.

[f] In Prioris & Poſt.No.ad Pand.

[g] Ulp.in Dem. p 343.

[h] Pollux.l.8. p.390.

liable to ψευδοκλητίας δίκη, a writ of molestation for a false cause. Having thus far proceeded, the Impleader gave in a Libell, which held contents of his action, and the summe of the defendants answer. This the *Greeks* call [a] Ἀντιγραφὴν, *Antigraphen*. Though I know also that all cases in law were termed [b] ἀντίγραφα, καὶ ὑπογεγραφαί. They tooke this course because the Defendant might know what to answer. And because it was ordinary in *Athens* for knaves to accuse out of envy, which is, συκοφαντία, they made a[c] Law, that whosoever accused and had not the fifth part of the voices should be fined a thousand Drachmes. And he that could not prove his objections was also punished in the purse a certain summe; [d] which if he paid not at the constituted time, was fourfold; And if his ability reached not so far, he suffered imprisonment. At the presenting of the *Antigraphe*, testimonies were also delivered, (formes of which you shall often meet with in [e] *Demosthenes*) & a copy of an oath, which the Suiter gave, in these words [f] Ταλήθη κατηγορήσειν, that he would justly accuse. Ταλήθη ἀπολογήσασθαι, that he would according to truth make his Apologie; and this they name [g] αὐτωμοσίαν. These writings were cast into a certain coffer, forth comming as occasion should require; all which [h] *Aristophanes* in one verse comprehends, Αὐτωμοσίας καὶ προκλήσεις καὶ μαρτυρίας συνεχόλλων. They joyned or put together oaths, citations, & testimonies. I so interpet it against the Scholiasts minde, who will have, προκλήσεις to be exhortations given to the Plantiffe and Defendant to come to composition. But I know that [i] προκαλεῖσθαι is κατηγορεῖν, εἰς δικαστήριον ἕλκειν, to accuse, *in jus rapere*, [k] and προκεκλῆσθαι, διὰ μαρτύρων ἐπισχεθῆναι. The chest or coffer was called ἐχῖνος, and of this are the words of the Greeke Oratours to be understood [l] εἰς ἐχῖνον καλεῖν. [m] *Theophrastus* of a mad man that would entangle himselfe in any thing, ἐχῖνον ἐν τῇ προκλήσει, καὶ ὁρμαθὸν γραμματιδίων ἐν ταῖς χερσίν. Having an *Echinus* in his lap, and a bundle of libells in his hands. *Pollux* makes a different expositon of his oath from that

a You have a forme of this in Demosth. p.628.
b Arist. Nub. p.154.v.Sch.
c Demost.p. 716.n.7.
d Arist. Schol. p.170.
e Unum contra Stephan. ψευδ. α. p.622. aliud p.624.629.
f Sch. Arist. Vesp.505.
g In Vesp.p. 467.505.
h In Vesp.p. 504.
i Sch. Arist. 239.
k Idem,p.195.
l Demosth. 612.n.33. 629.n.80. 640.n.22. 655.n.65. 665.n.66.
m Charact. περὶ ἀπορ. p.21.

that which other Grammarians doe, confounding, as is most probable, the ἀντωμοσία and ἀντωμοσία with ὀμοσία. For ὀμοσία is that first oath which the Plaintif gave to prosecute, the party prosecuted to answer, which on the defendants side was called ἀντωμοσία, and generally on both ἀντωμοσία was a Sacrament taken by both, the Impleader that he did [a] διώκειν ἐπὶ κλοπῇ follow the delinquent in law, the defendant ἐπὶ τοῖς ἐγκλήμασιν to stand stifly to it that he did not trespasse. And yet [b] Vlpian makes both these one. After this were they that sues out another admitted to the Judicatory, it being first demanded of the Suiter [c] whether he would persequi, follow the suit, and had sufficient witnesse for evidence; in causes capitall it was asked if there were need of any, who could not then be present. This interrogation was termed [d] Ἀνάκρισις. If then any thing was deficient the judgement was prorogued by an [e] ἀντωμοσία or oath, which the Plaintiffe took, that for the present he could not perform it, but certainly would. [f] Perhaps for that time pretending sickn sse, death of friends, or some urgent necessity, on which their fortunes might depend. When then all things were ready, and at hand, they proceeded towards the Tribunall, the Judges first swearing [g] that they would give sentence according to the Laws, and in those things concerning which there were no Laws, according to conscience and equity, (which the Greeks call γνώμην δικαιοτάτην) [h] and of those things only concerning which they did debate. This oath seems to have been taken at the Altar, from whence they brought their little stones (of these by and by) with which they gave sentence. [i] Plutarch. ἦσαν ἐπὶ βωμῷ ψηφοφορίαι. The oath is called ὀμοσία. Then went the Judges to their seats, neatly spread with mats in Greeke, στιβάδες, and [k] ἕδη, and all others being warned by the Præco, to goe without the Bars, in this forme [l] μετὰ τοῦτο they sate down. For we must know that the Athenian Judicatories were environed in, as the Romans with lattice I suppose, by these

a Schol. Aristoph V. Sp. 505.
b In Demost. p. 287.
c Vide Ulpian in Dem. pp. 347 341.
d Bud. in Annot. Rel. ad Pan. p. 341.
e Ulpian in Dem. p. 226. the Scho. of Aristoph. makes it the same with ἐπωμοσία. σλ. p. 75.
f Ulpian in Demost. 341.
g Pollux. l. 8. p. 906.
h Dem. pag. 628.
i Pag. 122.
k Aristoph. Sch. p. 239.
l Demosth.

called [a] Ἀγκλαὶ *Cancellatæ*, by the Greekes κιγκλίδες, [b]though κιγκλὶς more properly signifie the door of the Πικανικείου, before which was [c] a rope of fifty feet length drawn, and publique servants set, that none might enter, but who had businesse. The partition I think was but weak, and therefore by *Demosthenes* called ἀδύνατος κιγκλὶς. Within which none was permitted to come but the Judges. And therefore when *Demosthenes* did long to heare *Callistratus* plead concerning *Oropus*, he over-entreated his *Padagogue* that hee would bring him, where he might have the happinesse to be an auditor. The *Padagogue* therefore acquainted with the publique officers that opened the doores, [d] τὸν παιδαγωγὸν τὸν βαλανείου ἀνοίγοντες, procured him a place where he might heare and not be seen, [e] ἐν ᾧ καθήμενος ἀθλίως ἀκούσῃ. When then the Judges had gone within the bars, lest any should bee wanting the *Præco* cried [f] Εἴ τις ἔνδοθεν ἔστιν ἀθλητὴς, πάσιτω, if any Iudge be without the doore of the place of Iudgement, let him enter. [g] Because if any came after the case began to be pleaded, he could not have admission. Being then seated the Crier read the Inditement, ἔγκλημα, (a copy of some part of which you have in [h] *Demosthenes*. ΕΒΑΛΕ ΝΙΚΟΒΟΥΛΟΣ ΕΠΙΒΟΥΛΕΥΣΑΣ ΕΜΟΙ; &c.) in which according to the custome of the [i] old *Egyptians*, were given up to the court in writing all the reasons of accusation, the wrong received and the manner of it, with an estimation of the damage; The severall heads of which the Iudges wrote downe, lest the Impleader and defendant should swerve from what they had in hand. Then stood up the Suiter in a pulpit on the left hand of the tribunall, and spake an accusatory oration, made for the most part by some of the *Asiok* Orators, which use brought in by [k] *Antiphon* the *Rhamnusian*, [l] *Clemens* of *Alexandria* calls ἀπολογίας λόγους εἰς ἑαυτὸν γεγραμμένους, *Orations written for others, to be used by themselves in judiciall controversies*, such as *Lysias* is reported to have done for *Socrates*: Which left it should extend in length, was limited to a certaine time, by a water-clock, in

a Pollux. lib. 8. p. 407.
b Pollux loco citato.
c This is ἀπόσχοινισμα. Pollux.
d Pag. 485.
e Plutarch in vita.
f Aristoph. pag. 494.
g Aristoph. Sch. Ibid.
h Περὶ Παραπρεσβ. p. 367.
i Boemus De. Costumi delle Genti lib. 1. cap. 5.
k Arist. Rhet. l. 1. c. 33.
l Stromat. 3. pag. 216.
m In Rhod.

in the bottome of which was a ſmall hole for water to run, as ſand doth in our houre-glaſſes, thence called κλεψύδρα, into which was poured an equall meaſure of water; and leſt there ſhould be deceit, there was an officer made for that purpoſe, named [a] Ἐφύδωρος ὁ φυλάττων τὸ ἴσον τοῦ ὕδατος ἐν ταῖς κλεψύδραις filling alike for the Impleader and anſwerer. [b] When therefore the glaſſe was runne, it was not lawfull for them to ſpeak farther, nay for ſcantneſſe of time they were compelled to paſſe by many things; and for that reaſon were they chary of their water, bidding that it ſhould be ſtopped at the reciting of Lawes, or the like, which *Demoſthenes* intimates in Ξυμβάλλεσθε τὸν ὦτον, ἂν ἀπολαμβάνειν is to ſtop the noſe in [d] *Ariſtophanes*. [e] *Apuleius*. *At tu interea dum legit, aquam ſuſtine. Pancirollus. Ne ſi aqua interim effluxiſſet, amplius ſibi dicendi præbita foret facultas*, leſt hee might not have leave to ſpeak any more, if the water were ſpent. If any would give way to another to ſpeak while his glaſſe was running, he might; which *Demoſt.* teſtifies, ἐν τῷ ἐμῷ ὕδατι λαλήσω. But if he would not permit it, he had the *Præco* caſt it forth [f] ἐξέχεε τὸ ὕδωρ *Ulpian*. Τυτίαν ἐκάλει. From which kind of pleading it grew into a proverbe, [g] πρὸς τὴν κλεψύδραν, [h] *Cicero*, *ad Clepſydram*, to ſpeake by the houre or an alotted time. His ſpeech being ended, he ſate downe. [i] The defendant then ſitting all that while over againſt him, untill he had finiſhed, after addreſſed himſelfe to his anſwer, which he made from the right hand of the Indicatorie; where he had a pulpit, and ſtations; for this reaſon ſaies [k] *Ariſtotle*, becauſe they would make both parties equall: For the Suiter having the better part, they gave the upper hand to the defendant. Or becauſe οἱ φεύγοντες or defendants, were for the moſt part in cuſtody. If therefore the guard ſtood on the right hand, the defendant ſtood there alſo. Thence then he pleaded for himſelfe; in which plea he was only to wipe out thoſe accuſations which his adverſary laid againſt him, [l] μόνον καταμαρτυρίαν λύειν ποιεῖν. And in that had the plaintiffe a prerogative. For he might

[a] Pollux l.8. p.104.
[b] Ulpia. in Dem.p.356.
[c] Demoſth. περὶ Βοιωτ. p.586.
[d] In Pluto.
[e] Apologia.
[f] Demoſth. ὑπὲρ φορμ.
[g] Ariſtoph. p.617.
[h] Tuſc.Qu. l.2. in fine.
[i] Ulpian in Dem.226.
[k] Problem. διὰ τί δικαστὰς χειροτονοῦσιν ἢ λαγχάνουσιν.
[l] Ulpian in Demoſth.p. 252.

object what he would; may and as *Aristotle*, forecast all before he commenced his suit, and feigne to himselfe what he pleased; The defendant, perhaps innocent, was at that instant to cleare himselfe, either by witnesse, or probabilities, of all doubts, what soever the Plaintiffe could cast in. Sometimes the Plaintiffe and Defendant would desire Advocates of the Judges, Συνηγόρους, hence ἀγορὰν συνηγόρων, to plead for a fee. In the time of their pleading, witnesses were called, who came in, and gave their testimonies, and after they had uttered what they had to say, they went to the Altar (as it seems to me, either in, or very nigh the Judicatorie) and swore. *Cicero. Athenis aiunt cum quidam apud vos sanctè graviterq; vixisset, & testimonium dixisset publicè, &, ut mos Græcorum est, jurandi causa ad aras accederet, una voce omnes Judices, ne is juraret, reclamasse.* They report that in Athens when a certain man (*Xenocrates*) who had lived godly and gravely among them, had given witnesse, and as the fashion of the Greeks is, approached to the Altar to take oath, all the Judges with one voice cried that he should not. (They would not, it seems, have beliefe rather be bound with religion then truth.) Fit to this is the answer of *Pericles* to a friend of his desiring him μαρτυρεῖν ὑπὲρ αὐτοῦ, to testifie a lye, which he was to avouch with an oath. I am your friend, quoth he, to the Altar, that is, as farre as conscience, religion and honesty shall permit; hence ἀπὸ βωμοῦ καὶ ἕως πρὸς ἀγοράν, grew, I suppose to be a proverb. *Plut. Apophth. p.* 118. Whether in this ceremony they touched the Altar, I cannot fully say; in delivering their testimonies they were wont to touch the tips of the eare (for reason to me unknown;) called λοβοὶ from λαμβάνειν, etymologicon; (But I rather may suppose to be a Roman fashion, where the Plaintiffe was wont to pluck his witnesse by the eare, for remembrance sake. *Horace lib. 1. sat. 9. Licet antestari? ego dextro obvertam auriculam.* To which *Virgil* looked, saying *Cynthius aurem vellit & admonuit. Eclog.* 6.) and at the end thereof

a Loco laudato.

b Demosth. 219.

c Clemens Aland. These had certaine pettifoggers under them, that administred the Lawes and formes of action. Cicero apud Græcos infimi homines mercedulâ adducti ministros se præbent in judiciis Oratoribus its qui apud illos παραγωγοὶ vocantur.

d Cornelius a Vide at Atticum. l. 1. c. 13.

e Vide Laertium in vita ejus.

thereof with all deliberation to themselves and house if they deale falsely. Which if they did, they were subject to a *κακοτεχνιῶν*, or false witnesse, and he that suborned them *κακοτεχνιῶν*. Sometimes the witnesse was not present at the doing of the wrong, but took it from others by hear say, which the Greek Lawyers terme, *ἀκοὴν*, as *ἀκοὴν λαμβάνειν*, when they take from those that are dead, which went for current, and was allowable. But to bring a testimony from the Mouth of one that was alive, and within the territories of *Athens*, it would not passe. As neither theirs who were debarred the liberties of the City, *ἄτιμοι*, or servants, or any man in his owne cause. The manner of witnesse was twofold, either by personall appearance and testifying *αὐτοπαθῶς*, and then he was called *μάρτυς*, in the case lyable to the Law, and *ἔνοχος*, or else by writing, by which he offered himself to his questions or attachments in Law, against whom he witnesseth, if he were not true, and this is *ἔγγραφος*. Both parties being heard, and the Recreation ceased, the *Praco* cried, *Quibus mos est jus violare*, let him cast in the black stone, or below, *quibus fas est servare*, the white above. To which we must know that anciently the Greeks gave their sentence with black and white pebles, called *ψῆφοι* (which the Romans semblably terme *Prætiosæ*, *ὀψῶνιον*)

Adorat antiquis niveum sub Castibus
Hic damnare reos, illi absolvere vsus.

The antique fashion was with white stones to absolve, with black to condemne the accused. Pertinent to which is the saying of *Alcibiades*, when he was called out of *Sicilie* to go home and answer for his life, counting it foolish to goe thither, whence he never was like to escape; when one asked him, *Will thou not trust thy country which begat thee to be thy Judge?* quoth hee, *Διόδοναι μὴ ἀγνοοῦσιν ἡμᾶς ἀφαλέστερα πλεῖν, ἢ τοὺς ἐμοὺς ἐμαυτοῦ κρίνειν.* No not her, that brought me

a Demosth. p. 619. 647.

b Ulpian in Demosth 238.

c Pollux l. 8.

Dem. p. 470.

Dem. p. 165.

d Aristoph. 438.

e Aristoph. 438.

f Metamorph. 15. F. 1.

g Ælian. Var. lib. 13. c. 38.

Plut. Mor. p. 140.

me forth. For I feare left them being ignorant and not conceiving the truth, mistake the black for the white stone. The black made *tristem sententiam*, and was so named; the sad sentence, the white *candidam* or acquitting. They used likewise black and white beans, in respect of which *Pythagoras* is thought to have spoken a riddle, [illegible] not to eat beans, by [a] Marmus interpreted [illegible]. Not to undermine justice with bribes; or that men should get by the perverting of equity. I see no reason, but that I may think he means men ought not to bee forward in getting places of Judgement. For [b] [illegible] in *Aristophanes* is by the Scholiast expounded [illegible] and [illegible] is used for a Judge, which properly signifies an eater of beans. But afterwards they had little pellets of brasse: The bloody ones of them were pierced through, therefore [c] termed [illegible] the living were whole. [illegible] Of these every one took of each other from the Altar, as I have [d] said, where laying their hands upon the [illegible] or balls, they intimated by a transposition of them (as from the black to the white, and from the white to the black againe) that they would not for envy or by respects, but indifferently and truly judge. When then they were ready to passe sentence the Priest carried about the [illegible] or [illegible], a certaine pitcher (for so [e] *Xenophon* calls it, [illegible]), having on the mouth of it a conveyance like a Tunnell, named [illegible], but the top thereof was covered close, except a little hole for one peller at a time to be put in, made for the voiding of deceit. I suppose, lest one man might cast in more, and therefore were they to touch the [illegible] only with the forefinger, middle, and thumb. [f] *Aristoph.* [illegible]. But we must know, that the blacke and white pellets were not promiscuously cast into one pot, but two. [g] The one which freed was made of brasse, called [illegible] whether because they first threw into it their voices, or because it may signifie the better, I know not. The other that condemned, being wodden

[a] In Nat. Stelit. 17.

[b] Pagina 290. [c] Lysistrata. p. 870.

[d] Pollux. l. 8. pag. 407. Ulpian. in Dem. p. 470. [e] Ulpian in Dem. p. 162.

[f] Aristoph. 485. [g] Pag. 263.

[h] Pag. 437. vide Scholiast.

[i] Aristoph. Vespis. 500.

wodden [illegible]. After the Crier had gone round with bath because some would keep their hats, and so favour not give their voice against a friend or great person, therefore he cried, Τίς ἀφίησιν ἀνηρ; Who hath not cast in his ball? let him rise. So he rose and threw it in. Then they took them out and numbered them, and so matter of lands, mony or the like, whose vessell (for there were as many set as the number of the litigants came to) had most, got the upper hand. At the counting of them a Magistrate stood by with a rod, and laid it over those that were told, lest they should mistake the one from the other, or wittingly do it. For so were they wont to doe, thence named [illegible]. Which Teucr objects to Menelaus about Ajax, when by his deceit the armour was given to Ulisses; and therefore he calls him [illegible] Sch. [illegible] not agnisse, [illegible]. When the number was known, if the white or solid balls were more, they took their tables which they had in their hands, and drew a short line, as a token of absolution; if the black or hollow were more, they drew a longer line, as condemning. Hence [illegible] may be used for to condemne every body. The thing it self they termed [illegible] Aristophanes. By this the one party being overthrown (as none ever was without the sentence of the Iudges) his adversary wrote down what damages he should pay, which they terme [illegible]. Plutarch [illegible]. For it was a use of old for those that went to Law to make agreements (I know not whether by oath, for they did sweat by three Gods, Ἰάσιον, Καλλιστρατίων, Ξανθιππίων, and put it into the Tribunes, that they would stand to such and such conditions, before sentence, that he that was cast should undergoe somewhat; and afterwards [illegible] that is set down what losse of limbs or life, or mulct, &c. For although they did [illegible] give their estates as pledges to answer and meet at the Court; yet it may be that might be losse or more then the fine. There was in

a Aristoph. Vespis.

b Schol. Nic. in τηλ.

c Sophocles Ajacc. p. 68.

d Schol. Arist. 438.

e Aristoph. Vesp. loco. cit.

f Pag. 491.

g Aristoph. p. 472.

h βιοις [illegible]. P. 454.

i Schol. Arist. in τηλ. pag. 50.

k Schol. Arist. 740.

minall causes capitall or other proceeding like to that in the City
a Contaren. de Rep. Ven. lib. 3. of Venice, where they gave two sentences. In the first they determined whether they should condemne or free; if in the first he was condemned, the manner of punishment was ordained in the second. But if in the first they found no cause of death, they bad the accused to fine himselfe, which b Apolog. Socr. p 265. imposition imitates by custome, and it is well to little the Iudges doubtlesse made it more, as (the Scholiast of Aristophanes, if I forget not) the custome is set downe by c Cicero, c De Orat. 1. fol. 61 b. speaking of Socrates. Ego ille quoq; damnatus fui &c. And he now was condemned, not only by the first suffrages, but also by those which by the appointment of the Lawes they were to give the second time. For in Athens the accused being found guilty, if the offence were not capitall, they weighed and considered the penalty. When the sentence was to be given by the Iudges they asked the defendant, what fine he thought himselfe in reason deserved to forfeit; &c. (In the Roman Common-wealth this is not observed.) In tryall if there be more for the prisoners liberty, then against him, he is d Laertius in Socrat. p. 115. streit acquitted, but if more then halfe be in the pot of condemnation, he suffers. Socrates at the first had two hundred eight and seventy against him, three more of his side, and at the second time three more added to the former, so in all he had three hundred eight three score and one condemnatory suffrages. e Pag. 436. But few weights would have done as much. For we read in Mo- f Pag 430. ſtratus of Ovids Ide to be punished with death, &c. [illegible] g Pag. 338. [illegible] But Ulpian [illegible] h Aristoph. p. 244. [illegible] i Probl. 28. [illegible]

leave

leave some place for pity and compassion. To which the Judges were often moved. And therefore would they plead the [a]deserts of their ancestors; their own lives formerly well led. [b] Sometimes shewed they their wounds; and brought the venerable gray haires of their parents, but [c] mothers chiefly, to intercede in silence: Sometimes embracing their children in their armes, they held them up in the Judges view; or caused them to [d]come up into the βῆμα, or pulpit, & supplicate with teares; which wrought so much upon the Judges, that [e] *Aristophanes* in a scoffe presents one καταδεμένην τὰ πρὸ γνάθων, drowing his sentence in weeping. Then in compunction would the Judges speak to the prisoner, [f] Κατάδα, Κατάδα, wishing him to go down from the βῆμα a token often of mercy; though now and then it proved otherwise. Nay it was a word of displeasure too, as when *Plato* would have been Advocate for *Socrates*. Νεώτατος ὢν, ὦ ἄνδρες Αθηναῖοι, ἦλθ' ὅπι τὸ βῆμα ἀναβαίνων, they thundred out, Κατάβαινε τὸν τετέτα κατάβηθι. Neither may I forget [g] *Amynias* the brother of *Æschylus* the Tragœdian, who, when the people would have stoned his brother for some impiety brought on the stage, held up his elbow and arme without a hand, lost in the fight at *Salamis*: by which spectacle the Judges calling to minde the merits of *Amynias*, dismissed the Poet. Neither may I omit what [h] *Xenophon* objects to them, that they cared not so much for justice, as regarded what might conduce most to their own profit, and be convenient: [i] And that they condemned innocents, and spared offenders that could speak well. Furthermore another fault of theirs was the prolonging of cases a whole yeare, saies [k] *Xenophon*, and *Aristophanes*. Ἀλλ' ἤδη γάρ τὰς ἑξηκοντέτεις εἰσάγομεν, ἀλλ' εἰσαῦθις ἀναβεβλήμεθα. Now we doe not handle suits of above threescore yeares, but we are put off untill the next day. Τὰς ἐντὸς ἔτους ἥκουσιν δὲ ἐνδικάζομεν. For wee come to triall within twenty yeares. This *Xenophon* imputes to the multitude of their imployments. As long as the case hung in suspense, the name of

[a] Dem. p. 492.
[b] Aristid. T. 3. p. 292.
[c] Dem. p. 493.
[d] Aristid loco cit. παιδία αὐτοῦ ἐλεεινότατον.
[e] Aristop. pp. 469. 499.
[f] Vesp. p. 499.
[g] Sch. Ar. 500.
[h] Laert Socr. p. 115.
[i] Ælian Var. hist. l. 5. c. 19.
[k] Athen. Rep. 8 τὸ δικαίως αὐτοῖς μέλει μᾶλλον ἢ τὸ αὐτοῖς συμφέρον. p. 404.
[l] Apol. Socr. initio.
[m] Athen. Rep. 406.
[n] Ἐκκλησιαζ. 752. 753. They are translated foolishly into latine. εἰσαῦθις is what the Proctours in the Civill law ususally mean by *in proximum*, *in Proximum*.

[a] Budæus in Pand. No. Relig. p.31.
[b] Demoſt. in Mid. 347.
[c] Conr. Andro. 388.
[d] Dem. p. 406.

the accuſed was (as among the Romans, whence [a] *Rei pendu-li*) expoſed in a publique table to the view of all men, which they terme ἐκκεῖσθαι. *Demoſthenes.* ἵνα ἐκκέοιτο πρὸς τοῖς Ἐπωνύμοις. *Ulpian.* ὥστε δεῖν ἐν πᾶσι βλέπεσθαι. You ſee here the place too, *viz.* at the Statues of the *Eponymi*. Before a man was convicted, all that they objected to him was but αἰτία, by [c] *Demoſthenes* termed ψιλὸς λόγος, a bare report; but after proofe ἔλεγχος. ὅταν δὲ εἰς ἀμφότερα ᾖ, καὶ τὰ λεγόμενα δείξῃ. After judgement paſt, [d] ἀδίκημα. An inditement of ſacriledge, theft, murder, treaſon, is but αἰτία; the evidence and conviction makes it ἔλεγχος, the ſentence, ἀδίκημα.

CAP. III. SECT. II.

De Areopago, & ejus appellatione. Areopagita.

[e] When *Tullius* had divided the Roman field, he made on high hills and places fortified by nature, refuges for the husbandmen and called them πάγους. Dion. Hal. 4. Not as if it ſignified a village, but as it was ſituated. For *Pagus villa ruſtica* comes from πηγή. Becauſe built neare a well. Perot.

ON the hill, on which the *Acropolis* was built, ſtood the *Areopagus*, in the old tranſlation of the Acts of the Apoſtles rendred *Vicus Martius*, by our Engliſhmen, *Mars his Street*, Falſly. For [e] πάγος beares not that ſignification, but what [f] *Juſtin Martyr* interprets, ὁ ὑψηλὸς τόπος, an eminent place. Ἐν δὲ ὄχθῳ τινὶ τῷ ἐκεῖσε τὸ δικαστήριον. For that Judicatory was on a high rock. Therefore named by [g] *Æſchylus*, & [h] *Euripides*, Ἄρεως ὄχθος, by [i] *Ovid*, *Scopulus Mavortis*, and [k] *Ennius*, *Areopagitica petra*: ſo called, as fond Antiquitie would have it, [l] from the judgement of the twelve Gods upon *Mars*, for killing *Halirrhothius* the ſonne of *Neptune*. But [m] *Juſtin Martyr*, becauſe he was there arraigned of advoutery, μοιχείας ἐκεῖσε δίκας ἔδωκεν, But alike true. It pleaſes mee well to conſider the ſuperſtition of the Ancients, that conſecrated high places to their deities, and erected the ſtatues of their Gods upon hills. As [n] *Parnes*, *Hymettus*, *Anchesmus*,

[f] In Acta p 136. [g] Eumenid. p. 196. [h] Elect. p 836. [i] Metamorp. l. 6. fab. 2. [k] Vide Scalig. in conject. [l] Demoſt. p 413. Pauſ. p. 26. Simeon Met. & Pachym. in vit. Dionyſ. Areopag. [m] Loc. citato [n] Pauſ. Attic. p 81.

whence

whence *Jupiter Parnethius, Hymettius, Anchesmius.* And as in *Athens, Neptune* had a hil Ποσειδῶνος πάγος, *Saturne* another, Κρόνου πάγος. *Pan* another, Πανὸς πάγος. *Mercury* another, Ἑρμοῦ πάγος, so *Mars* his *Areopagus.* [a] *Æschylus* gives it a nomination from the *Amazons*, sacrificing to *Mars* there, when they came and fought against *Theseus.* Or if you will receive the opinion of others, it takes the name from the cases in it handled, of blood wilfully shed: so *Hesychius*, Ἀρειος φονικός. That when [b] *Juvenal* calls it *Curiam Martis*, you may interpret it, *The Court of murther*, but willingly committed. This is termed by the [c] *Tragœdian, the most uncorrupt, sharp, reverend councell*, then which nothing is more constant (saies [d] *Tully*, comparing to it the Roman Senate) nothing more severe, as by [e] *Pseudo Dictys Cretensis*, it is stiled *Judicium severissimum per omnem Græciam.* Then which none judged better, more just, or honest, saies [f] *Xenophon.* [g] *Plutarch* writes that this Court was ordained by *Solon*, and [h] *Cicero* received the like opinion; but that seems to contradict it, which *Plutarch* presently brings, quoted in the thirteenth table, that they who had lost their liberties should be restored again, unless they were condemned by the *Areopagites, Epheta, Prytanes, Basileis*, of murther, slaughter, tyranny, when that Law was enacted. And by and by, [i] Τινες δὲ φασιν ὅτι καὶ Σόλωνος, &c. Who were condemned in *Areopagus* before *Solons* time (if he first instituted the *Areopagites.*) [k] Others are of opinion, that *Solon* added the *Areopagites* to the *Epheta* (Iudges so called, because when formerly the *Basileis* made inquisition after murder unwillingly committed, *Draco* made it ἐφέσιμον, that is, translated it to the *Epheta*, their number was but fifty one. And though they judged in five Courts once, yet by little & little they became ridiculous.) [l] *Possevinus* saies, he abolished their severity, and substituted the *Areopagites.* But [m] *Urbo Emmius* more probably, that [n] *Solon* was not the Author of this Senate, but brought it into a better forme, made it more strong and firme, and augmented the power of it. For *Draco* it seemes

[a] Eumenidib. p. 296.
[b] Satyr. 9. v. 100.
[c] Æschylus pag. 297
[d] Ad Atticum, l. 1. ep. 1-1.
[e] De bello Tro. l. 6. p. 147.
[f] Απομνημ. p. 448.
[g] In Solone pag. 63.
[h] Offic. l. 2.
[i] Loc. laudato.
[k] Pollux l. 8. p. 407.
[l] De Athen. Meg. p. 446.
[m] D. Rep. Athen. p. 20.

leſſened the authority of it, deriving it to the *Ephetæ*; *Solon* reſtored that authority and made it greater. [a] To this company none were admitted, but wiſe, wealthie, and noblemen; [b] famous for good life, and innocencie, τὸ ἐπὶ πᾶσι ἀνεπίληπτον, whom no man could juſtly charge of miſdemeanour. Nay, men, whoſe behaviour was intolerable, [c] ἐν τοῖς ἄλλοις πρᾳγμασιν ἀνεκτοὶ ὄντες, after they were choſen into the Colledge of the *Areopagites*, abhorring and bluſhing at their former diſpoſitions, μιμησάμενοι τὴν φύσιν χρῆσθαι, changed their natures, and embraced vertue. The number of them is uncertaine [d] *Nicephorus* makes them but nine; as *Maximus* too out of [e] *Philochorus*; *Pachymerius* fifty and one. But what *Maximus* produces after, is ſomewhat, that they conſiſted of fifty and one, beſide the Nobility moſt wiſe and rich, πάλιν ἐξ Εὐπατριδῶν καὶ πλούτῳ καὶ εἴῳ σώφρονι διαφερόντων. By which words he ſeemes to aime at the nine *Archontes*, [f] who when they had governed one year, and given an account of their offices, and had adminiſtred all things juſtly, were choſen yearly into this ſociety. For which election anuall, the number was doubtfull. For ſome might dye in that ſpace, or all live, and in the next yeare be increaſed. *Volaterran* out of an old inſcription in *Acropolis*, that they were three hundred; ΤΩ ΑΑΜΠΡΟΤΑΤΩ &c. To the moſt famous *Ruſius Feſtus*, *Proconſul of Greece & Areopagite*, *the councel of Areopagus conſiſting of three hundred*; and the people of *Athens* ſet up this monument *for a teſtimoniall of his good will and benevolence*. But that might only happen when this was erected. [g] They continued all their lifetime in their dignity, and were never put out, εἰ μή τις μεγάλως ἥμαρτε, unleſſe for ſome grand offence. [h] *Bozius* tells us (how true I wot not) that they were all Prieſts. *Athenienſes olim, &c.* The *Athenians*, quoth he, did ſtrive to challenge to themſelves the prerogative of wiſdome, and to them is it bent what the Apoſtle ſaies, *The Greeks ſeek after wiſdome*. Nevertheleſſe their *Areopagus*, who had the power of all things conſiſted of Iudges that were Prieſts, and the High Prieſt

[a] Vide Maximum in Prolog. ad S. Dionyſ. opera & Niceph. lib. 2. in vita Dion.
[b] Pachymer.
[c] Iſoc. in Areopag. p. 133.
[d] Loco ſupra laudato.
[e] Atthid. l. 2.
[f] Anonym. in Argu. Oratio. Androtia.
* They were of thoſe Magiſtrates that were choſen by Lot, as the Archon, Theſmothetæ, Baſileus, Polemarchus, for which cauſe Pericles was not of that number becauſe he never attained to theſe offices. Plut. in Peric. p. 113.
[g] Anonymus loco laudat.
[h] De ſtatu Italiæ adverſus Machiavel.

Prieſt of all that asked every of their ſentences; took the ſuffrages. Their authority was unlimited. For [a] they were overſeers of all, [b] Iudges of wilfull murthers, wounds given out of pretended malice; which would make ſome, having a deſire to drive a man out of *Athens*, go to a Chyrurgion and make an inciſion in their heads, that they might ſue him who they hated, upon an action of battery, as [c] *Mantitheus* againſt *Bœotus*. They fate upon incendiaries and impriſoners, if the party dyed that tooke their doſes. [d] They ſaw that the Laws ſhould be put in execution; ſuch as *Contaren* would have in *Venice* to be guardians of their Statutes. [e] In a word all great delinquencies came under their cenſures. They inquired into the behaviours of men; and we read in *Xenophon* that they ſharply reproved a young man for his looſe living, Ἀνακαλεσομένων αὐτὸν τοὺς Ἀρειοπαγίτας, &c. ſaies the *Dipnoſophiſt*. [g] *Valerius Maximus*. *Eſt & ejuſdem urbis* [h] *ſanctiſſimum conſilium Areopagus*. *&c.* There is likewiſe in that City the moſt ſacred Councell *Areopagus*, where they were wont moſt diligently to enquire, what either the *Athenians* did, by what gaine he maintained himſelf, and what his trade and actions were. That men, knowing and remembring that once they muſt give an account of their lives, might imbrace honeſty. [i] The Greek author tells us that except in great caſes of neceſſity they medled not with ſtate affaires, but it ſeemes otherwiſe. For if any one ſay, quoth [k] *Tully*, that the *Attick* Republique can be well governed, without the councell of the *Areopagites*, he may as well ſay that the world may bee governed without the providence of the Gods. When the *Medes* and *Perſians* invaded *Greece*, [l] by the advice of them was the war waged, wherein *Themiſtocles* purchaſed an everlaſting memory of a victory. [m] And when their publique Treaſurie was bare, they furniſhed each man with eight *Drachmes*, and ſtored the ſhips with Mariners. Which advice, when they had won the day, was a cauſe, ſaies [n] *Ariſtotle*, Σωτηρίαν ποιῆσαι τῇ πολιτείᾳ, to give ſtrength and ſinewes to the

[a] Plutarc. Solon. p. 63.
[b] Ælian. Var. l. 15. c. 15.
[c] Demoſt. in Orat. περὶ τοῦ Βοιωτὸν ὀνόματος.
[d] Dem. p. 445.
[e] Pachymer.
[f] In Sympoſ. unleſſe I am extreamly forgetfull. It is quoted likewiſe by Athenæus Dipnoſ. l. 4. p. 167.
[g] Lib. 2. c. 6.
[h] Ariſtides. T. 1. p. 331. Τὸ ἐν τοῖς Ἕλλησι δικαστήριον ἐπιφανέστατον καὶ ἁγιώτατον.
[i] Anon. Arg. Orat. Androt.
[k] De natura Deorum. 2.
[l] Eſt enim bellum geſtũ conſilio Senatus ejus. Cicero Off. 1.
[m] Plutarch. in Themiſtocl. pag. 84 l. 3.
[n] Polit. l. 5. c. 4.

Commonwealth. [a] Under their sight were all the youth of *Athens*. For this reason especially, because that when they were reckoned among men, and were come to age, they needed more care to be had of them, then when they were children; not observed by our countrymen in sending their sons young to the *Innes of Court*) youth and heat of blood, unstaidnesse in judgement, rashnesse in adventures, and proneness to vice, leading, or rather carrying headlong tender yeares to their owne destruction. To them appertained blasphemies against their Gods, violating of religion, and divulging mysteries; as when [b] *Eumolpides* the *Hierophanta* in answer to the question of *Theodorus*, Τίνες εἰσὶν οἱ ἀσεβοῦντες περὶ τὰ μυστήρια; who offended against the mysteries? Οἱ μὴ μεμυημένοι καὶ τὰ ἀμύητα ἐφορῶντες, replied, such as open them to those who are not initiated. Therefore, quoth the Philosopher, art th ou impious. For which crime, had not *Demetrius Phalereus* befriended him, the *Hierophanta* was in danger, εἰς Ἄρειον πάγον ἀναχθῆναι πάλιν, to have been brought before the Councell of *Areopagus*. By vertue of which authority St *Paul* was here judged for teaching strange Gods (as they supposed.) [c] For although that the *Athenians* were under the *Romans*, yet their Lords made them αὐτονόμους, *sui juris*, and permitted them to keep their ancient customes. The manner or proceeding in this Court, was thus. After the fellony committed, the appellant brought his inditement to the *Basileus*, who giving the prisoner and his accuser audience once a month, at three severall times to debate the businesse, in the fourth month, brings in the accusation to the *Areopagites*, [d] and putting off the crown which he was wont to wear, sate down as judge with the *Areopagites* in the dark: for they judged by night, saies [e] *Lucian*, that they might not regard the speaker, but what was spoken. It being there forbidden [f] προοιμιάζεσθαι καὶ οἰκτίζεσθαι to move to compassion, and use Proems, as in other Courts, wherein they craved the Judges favour and attention, which by *Demosthenes* are termed [g] περιαγωγὰς. This *Aristotle*

[a] Isocrates Reop. p. 132.

[b] Laert. lib. 2. in Aristippo. p. 154.

[c] Symeon Metaphrast.

[d] Pollux. l. 8.

[e] Hermotim. p. 505.

[f] Pollux pag. 405.

[g] Vide Ulp. in Demost. pag. 396.

Stile calls ἔξω τοῦ πράγματος λέγειν, to ſpeake beſide the matter. Before the triall both parties ſweare (which they ſtyle [a] διωμοσίαν.) The appealer ſtanding upon the *teſtes* of a Goat, a Ram, and a Bull (uſuall to the *Greeks*, as *Tyndareus* ſwore the Suiters of *Helena*, that they ſhould revenge any wrong done to her and her predeſtinated husband, [b] ἐπὶ τῷ ἵππῳ τῷ τομίῳ, and *Hercules* to the children of *Heleus* ἐπὶ τομίων κάπρων) tooke oath, therefore named ὅρκος ἐπὶ τομίων, in which he maintained that he dealt juſtly and rightly, and that he was joyned in affinity to the ſlaine man; [d] which if he were not, he could not proſecute, the Law forbidding. The reaſon why he ſtood ἐπὶ τομίων, I ſuppoſe is, becauſe they are the inſtruments of generation, and in that oath, if he were not true, he wiſhed an extirpation of his houſe, himſelf, and his poſterity. In which if he were perjured, he was liable to the puniſhment, as among the Romans. [e] *Jurisjurandi contempta religio ſatis Deum ultorem habet.* For ſwearing is puniſhed by a revenging God, but if any ſwore falſe by the life of the Prince, he fell under the *Julian* Law, *Læſæ Majeſtatis.* After this the priſoner ſwore; which among us will not be allowed. Then ſetting each of them upon [f] two ſilver ſtones, one of which was named λίθος τέρεως, the ſtone of injury; the other ἀναιδείας, by *Adrian Junius* thought ἀναιρίας, of innocence, not impudence. Then the appealer asked the priſoner three queſtions, which [g] *Æſchylus* calls τρία πράγματα. Firſt, whether he were guilty or no, [h] εἰ κατέκτονας, to which he anſwered, ἔκτονα or οὐκ ἔκτονα, yea or nay: Secondly, ὅτῳ τρόπῳ καὶ ἔκτονας, for what reaſon he did the murther. Thirdly, Τίνος ξυλλήμονος; who were the Abettours. Then aroſe there certaine Lawyers, ἐξηγηταὶ, who ſhewed whether the murther was committed [i] σὺν δίκῃ, in juſtice. ([k] For in *Athens* there were ſuch Councellours, to whom in matters of difficulty they had reſort.) By σὺν δίκῃ, you muſt underſtand thoſe cauſes, in which [l] *Draco* thought it lawfull to kill a man; as taking him committing uncleaneſſe with wife, mother, ſiſter, daughter, or concubin, or any whom he

[a] Pollux loco laudato. Dem. cont. Ariſtocr. p.413.
[b] Pauſanias Lacon. p.103.
[c] Idem Meſſaniacis. p.126.
[d] Demoſth. p. 608.& 416. Theſe agreed, ſaies *Poſſard*, about the puniſhment, according to the damage received. De Athen. Mag. p.449.
[e] Lib.2.C.de reb.cred.
[f] Paſ. Attic. p.27.
[g] Eumonid. p.292.
[h] Ibidem.
[i] Æſchylus p. 293.
[k] Demoſt. vid. p.647.
[l] Demoſt. p. 312.

Vid. Demoſt. cont. Ariſtocr.

he accounts among his children; the party ſo offending might be ſlain in the manner by him, againſt whom he had treſpaſſed. Likewiſe, in the defence of a mans goods, if the thiefe were killed, impunity was granted. After this inquiſition, they paſſed to ſentence, which was given very privily, as *Juvenal* intimates, *Ergo occulta teges, ut curia Martis Athenis;* without ſpeaking (as the *Tabellares ſententiæ* of the *Romans*, in which they wrot C. if they condemned. A. if abſolved. N. L. if the caſe were not manifeſt) hence Ἀρειοπαγίτης σεμνότερος, for one that is cloſe and ſilent; and Ἀρειοπαγίτης, for one that is grave, and who can hold his peace, & in whoſe countenance is [a] *triſtis ſeveritas*, ἐπὶ τῇ σκυθρωπῷ καὶ συνεσταλμένῳ καὶ σιωπηλῷ. Whatſoever they concluded of, ſtood irrecoverable, [b] neither could there be any appeal to another Tribunall. And no marvell. For ſo upright was their ſentence, [c] that none, either Appellant or priſoner could ever ſay, that he was unjuſtly condemned. Nay both parties, as well thoſe that are caſt, as they that caſt, are alike contented, [d] ἠπιώδυσι σέργουσιν ὁμοίως τοῖς κακεργαζομένοις. After doom the priſoner was to ſuffer death. In which execution alſo the *Areopagites* had a care leſt the innocent ſhould be puniſhed with the guilty. When therefore they had condemned a woman for poyſoning another, they deferred the execution, becauſe ſhee was great with childe, and ſtrait way after her delivery put the mother to death. Which cuſtome is by us alſo obſerved at our Aſſiſes. It will not be amiſſe to relate one memorable thing done in the time of *Dolabella* Proconſul of *Aſia*, who, when a dame of *Smyrna* was brought before him, for killing her husband and ſon, who had deprived her of a hopefull youth, begot of her by a former husband, referred the audience of the matter to the *Areopagites*, who commanded the woman and her accuſer to appear ſome hundred yeares after; that by ſuch a bottome of time, ſcarce able to be unwinded, they might ſhew, that neither would condemne nor acquit the woman. One thing more, [g] *Quintilian* tels us, that they condemned a boy for

Vide Sylvium in Orat. pro Flacco.

a Terentius.

b Ἡ πάντων κείσις ἔκ ἐδίδου τοῦ κεῖθεν ἔφεσιν. Pachymerius.

c Demoſt. con. Ariſtocrat p. 413.

d Ariſtides Tom. 1. p. 185.

e Ælian. Var. hiſt. l. 5. c. 13.

f Valer. Max. p. 322.

g Lib. quinto.

for putting out the eyes of Quailes. Because it was a sign of a minde, likely to prove most pernitious. Their power was shaken and somewhat pluckt downe by [b] *Ephialtes*, a sore enemy of *Oligarchical* government, and more enclining to the people, who was secretly slain by [c] *Aristodicus* of *Tanagra*. They sate three daies every Moneth, τετράδι φθίνοντος, τρίτη, δ' ἑβδόμῃ.

[b] Plutarch Vit. p 355. & M r. 291. [c] Plut. in Pericle p. 113.

CAP. III. SECT. III.

De Judicio. Ἐπὶ Παλλαδίῳ.

After the siege of Troy some of the Grecians came with *Diomedes*, [d] who kept the *Palladium*, to the coast of *Attica*, and arriving by night at *Phalerum*, supposing it to be an enemy country, went to make a prey. Where *Demopho* ignorant that they were Grecians came to aid and defend his own; and slew many of the *Argivi*, which they cast out unburied, whose bodies when no beast had toucht (οὐδὲν τετράποδον ζῴων, saies *Pollux*, the interpreter, *nullus vivus*, I better thinke it no creature, either fowle or beast) *Acamas* shewed that they were *Argivi* having the *Palladium*; being warned then by the Oracle (who named them Ἀγνῶτας, that is, [f] neither knowing nor knowne) they buried them; and in that place consecrated the *Palladium*; where they made also a judicatory, for murders unwillingly committed, and called it, * Ἐπὶ Παλλαδίῳ, *juxta Palladium*, as some. Here was *Demopho* first tried, who returning from this battell, killed with his horse, somewhat diverting, an *Athenian*; [g] for whose kinred some think he satisfied the Law, or generally for the *Argivi*. [h] If any had stricken a man or woman, and the party chanced to dye, he was judged in this Court. [i] In such cases the Law was very favourable; for the party offending was not punished with perpetuall exile, ἀπαγορία, as in wilfull felony; (kept by us in England once, called *Abjuration*,

[d] Dictis Cretensis de bello Trojano l. 5. p. 14. P.

[e] Libro octavo pag. 406.

[f] Schol. Soph. i. Oed. Tyr.

* It is simply so called Palladium. Ælian Var. l. 5. c. 15. περὶ δὲ τῆς ἐλευσίνων ἐν Παλλαδίῳ.

[g] Pausan. Attic pag. 27.

[h] Demosth. contra Neæram. pag 727. Vide 647.

[i] Demosth. pag. 329.

(where the guilty had his life upon oath, that he would never returne) but he did ἀφιέναι in a gentler terme. [a]For it was a custome of old, to give a certain summe of mony (the *Attick* Law χρῆμα ἐπίπνα, in wilfull, all was confiscate) to the kindred of the slaine, that they might not depart their country; but if they could not purchase an aboad they went somewhere else. [c] *Ovid. Cæde puer factâ Patroclus Opuntia reliquit.* Their discontinuance was but for one yeare, Ἄλλως ἢ ἔφυγεν ὁ φονεὺς ἢ πλεῖστον ὡς τὸ πολλὰ ἐνιαυτός. The money disbursed on such occasions was properly called ποινὴ, *quasi* φοινὴ, from φόνος, murder, as if it were the price of bloud. And the Scholiast of *Sophocles* tells us that ποινὴ is spoken only, ἐπὶ καταβολῆς χρημάτων of payment of mony, but abusively of any punishment. [d]If the party wounded had forgiven the offender before his death, or the allies of the man desperately hurt, none could afterwards compell him to flye; otherwise hee fled. And in that flight he betook himselfe to some acquaintance, by whom he was cleansed from the guilt with certain ceremonies of washing, which the Romans call *Februa*. So was *Patroclus*, *Peleas*, *Medea*, *Alcmæon* purified. [e] *Ovid.*

Græcia principium moris fuit: illa nocentes
Impia lustratos ponere facta putat.
Acteridem Peleus, ipsum quoq; Pelea Phoci
Cæde per Æmonias solvit Acastus aquas.
Vellam frenatis per inane draconibus Ægeus
Credulus immeritâ Phasida fovit ope;
Amphiaraïades Naupactio Acheloo
Solve nefas dixit, solvit & ille nefas.
Ah nimium faciles, qui tristia crimina cædis
Flumineâ tolli posse putatis aquâ.

In this ceremony they did θύειν, sacrifice saies [f]*Demosthenes*, (which custome likewise was observed by the [g]*Trœzenians* in the lustration of *Orestes* from the bloud of his mother, which I gather by the feast which they presently celebrated there

a Demosthenes, Midiana.
b Eustat. in Iliad. 1. Ἔθος παλαιὸν ἦν, φονεύσαντες πρός, &c.
c De Ponto lib. 1. Eleg. 4.
d Eustath. But Demosth. ἕως αὖ αἱ διαστάσεις τῆς ἐγγύης τὸ πεφονεῦσθαι.
Untill he obtained remission from some of the kindred of the slain.
e Demosth.
f Fastorum 2. initio.

g Καὶ Αἰσχιν. p. 414.
h Pausan. Corinth. p. 74. Καθῆσθαι δὲ φασιν Ὀρέστην παθαρσίοις ἄλλοις, &c.

there, and yearly observed afterward. This manner was done with water, as you may read, taken out of the well *Hippocrene*, made by the foot of *Pegasus*; the sprinkling was with a little bough of Lawrell, as I suppose by the words following perswaded to it; which tell us, that when the καθάρσια were buried, there sprouted out of them a Bay tree) and after that καθαίρειν, δῦναι καὶ καθαρθῆναι. This as I said was in his flight, Κατίοντ' ὀρθῶν καὶ καθαίρεσθ' ὁμιλεῖς ποτί. The proceeding in this Court, was first, διωμοσία such as before I mentioned, an oath in each party, accuser and defendant: secondly, λόγοι, their speeches of both sides: thirdly, γνῶσις δικαστῶν, Judgement. If the prisoner were found guilty, that is, unwillingly to have murdered, then had he a time appointed him, how long he should flye, as above said, untill he had made peace and gotten pardon from the Cousins of the deceased.

CAP. III. SECT. IV.

De Judiciis, ἐν Δελφινίῳ, Πευτανείῳ, Φρεάττοι.

AT Athens there was a Temple erected by [a] *Ægeus* (who lived in *Delphinium*) to the honor of *Apollo Delphinius* and *Diana Delphinia*, [b] where was the Tribunall named ἐν Δελφινίῳ, or ἐπὶ Δελφινίῳ δικαστήριον. * In this Judicatory were heard cases of murder, when the party confessed the fact, but pleaded that it was legitimate. [c] For the Law required no punishment of any man that should kill another taking him committing adultery with his Wife, or uncleanness with his Mother, Sister, Daughter, Concubine, or free Children. Likewise if in preservation of his goods, or own defence he spilt bloud it was not capitall. The first that was arraigned here was *Theseus*, maintaining the right he had to slay the theeves, saies [d] *Pollux* (I know not whether hee mean *Sciron* and *Procrustes* &c.) and *Pallas* with his children, who were rebels. Before this triall of *Theseus*, whosoever

a Plutarch. pag. 4. l. 19.
b Schol. Arist. pag. 333.
* Ælian. Var. l. 5. c 15.
c Demosth. contra Arist. pag. 410. 411.
d Lib. 8. pag. 406.
e Pausan. Att. p. 27.

soever had slain any body was compelled to flye the country, or staying dye, were the cause never so just. Εν Πρυτανείῳ. Here they sate on things inanimate. As if a stone, timber, iron, or such like, fall on a man, and kill him, if the party that flung this be not knowne, sentence was past on that thing which slew him; and the φυλοβασιλεῖς that were the Masters of this court, were to see this thing cast out of the Territories of Athens, to which [b] *Æschines* alludes, Τὰ μὲν ξύλα καὶ τοὺς λίθους, καὶ τὰ σιδηρᾶ τὰ ἄφωνα, καὶ ἀψύχωτα ὄντα ἐκπεσόντα ἀπαλλοῖτ' ἂν ἐξορειζομένα. The first thing that here was judged was an Axe, wherewith the Priest, whom they call Βουτύπον, had slain an Oxe on the altar of *Jupiter Polieus* in the time of *Erectheus*. Εν φρεαττοῖ. In that part of *Pireæum* which is next the Sea, is a place which they name φρεάττυν, from *Phreattus* an *Heros*, some think; not because it stood in a pit, whence [c] *Pollux* names it ἐν φρεάτει. Here they were judged who having fled out of another country for unwilfull murther, [d] μήπω φεύγοντων αὐτὸν ἢ δεδιωγμένων, they that drove him out not acquitting him, if in the space of his exile it happened that he wittingly slew another, he answered heer. The proceeding was in this sort. The Judges assembled in φρεαττοῖ, in a place seated on the Sea, [e] πόρρω ὄντα καλύμματον ὑπὸ θαλάττιον where the guilty drawing near in a boat or bark, was to make his apology, [f] μήτε ἀγχόθεν ὁρμοῦντα, not comming to land or touching it, neither casting anchor or mooring his bark, and if he were found guilty he underwent deserved punishment: If he were not found guilty they cleared him of that fact, not discharging him of the former, [g] πῶς δ' ἐγὼ τοῦτό γε φόβῳ φυγὼν ὑπέμεινα. I know not whether I may be of that opinion that others are in this, that if he were cast in this tryall, he was exposed to the cruell mercy of the wind and waves. These last quoted words seem to contradict it. The first that ever answered here was *Teucer*, proving himselfe to be innocent of the death of *Ajax*; [h] whom treacherously circumvented because he defended not his father *Telamon* drove out of *Salamis*

a Pollux loco citato.
b Contra Ctesiph. p. 103.
c Lib. octav. 406.
d Demosth. contra Aristocr. 419.
e Demost. ib.
f Rodolphus Gualterus out of Pollux interprets it. Scalam terræ injicientem, putting downe a ladder; the Greek ὑποβάθραν.
g Demosthenes.
h Dictis crescens de bello Trajano l. 6. p. 145.

Salamis, unto which that he might be restored he made appeal to this court: Which gives light to [a] *Aristotle* Οπα τῆς φόνου φυγῆς, ἐπὶ καθόδῳ ἐστιάσεως. ἢ Αθήνησι λεγόμ) καὶ τὸ ἐν Ἀρείῳ πάγῳ δικαστήριον. Judicatories concerning men flying for murther, that care for their bringing back againe, such as in *Athens*, τὸ ἐν Ἀρείῳ πάγῳ When the party prosecuting will not admit of reconciliation.

[a] Politicon 4. c. 17.

CAP. III. SECT. V.

De Tribunalis reliquis. Παεάβυσον. Τείγωνον. Βατεαχῶν. Φοινικῶν. Τὸ ἐπὶ Λύκῳ. Μπίχυς δικαστήριον. Ἐν Ἀρδήττῳ. Διαιτηταί.

BEsides these Courts of bloud and causes criminall, there were for civill matters these, *Heliæa*, of which before for the excellencie of it I treated. Παεάβυσον. Of this name there were two, Παεάβυσον μεῖζον καὶ μέσον, the greater and the middle. In this Court were handled matters, saies *Petit*, that exceeded not one drachme, to which [b] *Aristotle* might be thought to looke speaking of Iudicatories, πεεὶ τῶν μικεῶν συμβολαιογεαφημάτων, ὅσα δεαχμιαῖα, &c. And this was the meaning of [c] *Pausanias*, Ἐν ὀλιγίστοις συμβόλοις, εἰς αὐτό Suing here for the least occasions. The *Undecimviri* were Iudges of the Court, which made *Petit* to suppose that it was not to bee reckoned among the Δικαστήρια. It stood [d] ἐν ἀφανεῖ πόλεως, in an obscure place of the city; whence ἐν Παεάβυσῳ, in [e] *Demosthenes*, is by *Ulpian* expounded, privily, by a *Metaphor* taken from the situation of this Iudicatory, or, Παεὰ τὰ ἀπόεεητα τῶν ἐν τῇ οἰκοδομίᾳ ὕδατος, καὶ κεύφια τῆς φανεᾶς, from goods secretly hidden. Ἐν Παεάβυσῳ, αὐτὸ τὸ λάθεα. Τείγωνον, from the forme of it, which seems to have been triangular. Βατεαχῶν, and Φοινικῶν, from the colours that were painted [f] ἐπὶ πρὸ ἀφηεισμένοις ἐστῶσι upon the post of the entry, answerable to which there was a staffe given to the Iudges, that they

[b] Polit. lib. 4. c. 17.

[c] Atticis. pag. 27. l. 13.

[d] Pausanias ibidem.

[e] Pag. 450.

[f] Aristoteles Athen. Rep. apud Arist. Sch. pag. 32.

they might know in what court to sit; For they presently went to that court which had the same colour with their staffe. Τὸ ὅτι Λύκῳ. From the statue of *Lycus* on *Heros*, which was there set up, having the face of a wolfe; where likewise the statue of *Juno* stood visaged in the same manner. But we must not omit that the image of *Lycus* was erected in every court; hence [a] Αὐκοι δεκὰς. *Lyci decem*, for sycophants and such as corrupt judgement, because that such persons were very frequent and busie there: And so thinke I *Pollux* is to be read [b] πάλαι ἢ σωφίσται ὁι σωδικάζοντες τὰ δικαστήρια (understand ὡς ἐν or the like) at which they who bribed the Judicatories met. *Xenobius* helpes my conjecture, ἔνθα οἱ δωροδοκοῦντες, καὶ συκοφάνται καὶ δίκαι γινόμενοι σωιεφέροντο. The [c] Scholiast of *Aristophanes* writes that this noble *Lycus* had a Temple neare the Judicatory, where the Judges divided their mony for pay, three oboli, to each, a day. [d] Μητίχου δικαστήριον. This was a great Judicatory, so named from *Metichus* an artificer, which built it. Here, who had passed thirty yeares of his age, and was well and nobly descended, and owed nothing to the publique treasury, might be chosen Judge. For of such they all consisted. Ἐν Ἀρδήττῳ. Some have falsly supposed that there was a Tribunall so called; neither did [e] *Meursius* think otherwise, when he translated these words of [f] *Pollux*, ἐν Ἀρδήττῳ δικαστηρίῳ, *apud tribunal Ardettum*. The fault crept in by the negligence of the transcriber; for the place is thus to be read, ὄμνυσι ἐν Ἀρδήττῳ δικαστηρίῳ. The Judicatories were wont to take oath or be sworne in *Ardettus*. *Ardettus* is a place neare the river *Ilissus*, so named from *Ardettus* a Peer, who swore the people, being in sedition and mutinie, to love and amity. Where afterwards, as is most probable, the Iudges took oath (I cannot justly say presently after their election) to give sentence according to the Lawes; and concerning things to which no Lawes were enacted, in equity and justice, [g] by *Apollo Patrius*, *Ceres* and *Jupiter Rex*. And this the Etymologist affirmes, speaking of *Ardettus*, [h] Ἐν τῷ

a Zenobius.

b Lib. octavo p. 406. The place is extreamly corrupted, as you may perceive by the false Greek.

c Vesp. p. 457.

d Pollux lib. 8.

e Athen. At. l. 2. c. 12. p. 124

f Lib. 8. pag. 406.

g Ἀπόλλω Πατρῷον, καὶ Δήμητρα, καὶ Δία Βασιλέα.

h Etym. mag. p. 147.

τὴν ἐν τῷ χωρίῳ ὄμνυον δι δικάσω ἢ δικαστικὸν ὅρκον. The Iudges in this place took their oath touching the diſcharge of their office. From whence among the Ancients ſuch as would preſently ſweare, were called [a] *Ardetti*, proverbially; as alſo thoſe who were perjurious and forſworne. [b] Καὶ Ἀρδήττεσθαι τοὺς ἐπιόρκους. Thus have we viewed the Athenian Iudicatories, in number tenne. For Murther, *Areopagus*, *Palladium*, *Delphinium*, *Prytaneum*, and *Phreattys*. For other matters, *Heliæa*, *Trigonum*, *Parabyſtum* (not the *Medium* but *Majus*) *Metichi forum*, & *ad Lycum*, where the Διαιτηταὶ were wont to ſit, ſaies [c] *Poſſardus*, of whom, becauſe [d] *Emmius* numbers them among *Iudicia quatuor præcipua* the four chief Courts, I will now ſpeak. But of every Tribe were choſen [e] forty four men, [f] above threeſcore yeares old, who judged in ſeverall Tribes, as it fell to them by lot. And if any refuſed to ſit according to his lot, he was deprived of the priviledges of an *Athenian* Citizen. [g] In former time there came no controverſie into the Courts, which had not firſt paſt through their hands (if it exceeded tenne drachmes. Although [h] *Ulpian* tells us that they determined of petty buſineſſes) but that ſeems to be, τὰ ἱερῶν, holy matters, if *Pollux* be ſo to be read. For ſome things there were which came not under their juriſdiction. What ever the διαιτηταὶ κληρωτοὶ judged, if the Plaintiffe and Defendant, or either of them liked not the award, they might referre it to the Senate (as appeares out of the [i] Argument of *Demoſth. Orat. contra Callippum*, & [k] *Pollux*) at which removing of the ſuit they were to caſt their ſuffrages into a pot as they gave them on what ſide ſoever, for the Plaintiffe by themſelves, and for the Defendant by themſelves. [l] When they were appointed for the hearing of a caſe, they were to meet at the place for them ordained, there to expect both parties untill the even, at which time if neither, or but one was preſent, it was in their power to fine them according to the Law. At the time they entred the ſuit, and wrot the accuſation, with the fine which

[a] Caſaub. Theop. Char. p 178.
[b] Etym. Mag. loco laudato.
[c] De Mag. Athen. p 540.
[d] Deſcrip. Reip. Ath. p. 41.
[e] Ulpian in Dem. p. 342.
[f] Pollux l. 8, p. 407.
[g] Pollux. ib.
[h] Demoſthenem loco citato.
[i] Pag. 678.
[k] Lib. 8. p. 407.
[l] Vide Dem. Midian. &c. Ulpian in illum. p. 344.

which was required for damages; they received as a fee from the Plaintif one drachme, which they called [a] Διάμετρον, as also another from the defendant, when they gave him his oath. The office was but annuall: And because they would pervert justice, (as [b] *Demosthenes* is witnesse, * although they were not to judge before they had sworne) give sentence according to favour, envy, or for gaine; therefore [c] at the yeares end they made an account of their function upon the last day of [d] *Thargelion*, on which it was lawfull for any to speak what he could object against them; and if any were faulty, they were ἄτιμοι. Thus much of the Διαιτηταὶ Καταρατοί. There were other Διαιτηταὶ likewise, such as our Civilians call *Arbitri compromissarii*; and we in English Arbitrators: whom two parties choose with a resolution to stand to their determination; whether in matter of debt, covenant, or other controversie soever. Such by the *Attick* law any might request, but with a necessity of abiding at their judgement. [e] For they could not appeal from them to any other court. To referre matters to their arbitrement, the Greeks terme, ἐπιτρέπειν διαιτᾶν. And it will not be superfluous here to relate the story of *Bunas* an *Athenian*, whom when the *Elei* and *Calydonii* had chosen arbitrator in a differencie, after he had heard both parties, he prolonged the sentence untill at last he died. Whence it grew to a proverb, [f] Βύνας δικάζει, *Bunas judicat*, Bunas judgeth, of those that defer to passe sentence, and hold a case long in suspence.

[a] Pollux l. 8. c. 10. p. 408.

[b] Orat. in Bœotum prodote.

* Idem pag. 682. n. 41.

[c] Ulpian loco laudato. 342

[d] Petit Miscel. l. 8. p. 211.

[e] Vide legem apud Dem. p. 344

[f] Zenobius.

CAP. IV.

De Nominibus Judicialibus.

HAving thus treated of the *Attick* Courts, it followes that I speake of their Tearms of Law, Writs, and Accusations. These were of two sorts, private and publique. The publique were properly termed Κατηγορίαι, saies [g] *Emmius*. Of

[g] Descrip. Resp. Ath. p. 41

Κατη

Καπηλείαις, there were divers sorts. Περὶ δὲ φάσεως, ἐνδείξεως, ἀπογραφῆς, ἀφέσεως, ἀπαγωγῆς, παραγραφῆς, ἐπωλείας. Περὶ φάσεως saies [a] *Ulpian*, is ὅτι τις παραγόμων, of any trespasse against the Law, by which the Statutes of the Commonwealth are violated; and most properly quoth he, elsewhere, it signifies an accusation made according to the Law; or to come nearer, it is the same which in English we call a Writ or Right, in Latine, *Actio* or *Formula*, as in [d] *Suetan*, *Injuriarum formulam instituere*, to serve a man with a Writ: [e] φάσις is a kinde of an Information made against any for abuses in the Mines, or Custome houses, for converting Tribute mony to a mans owne use, or the like. Which offences were brought to the *Archon* in writing, with the names of the accuser and accused, and the fine which the parties convinced should undergoe, to be paid to him to whom the wrong was offered. But if the Informer had not the fift part of the suffrages, he was to lay downe the sixt part of the fine; which the Orators call ἐπωβελίαν, from ὀβολὸς, because it signifies the sixt part of a Drachme. At the end of the accusation, the informer was to subscribe the names of the witnesses that were present. In generall, all discoveries of private injuries are called φάσεις, which in Latine you may name *delationes*. For which the Romans allotted the fourth part of the forfeit, whence they are stiled *Quadruplatores*; but among the *Athenians* not so, if [g] *Pollux* say right, ᾧ τὸ τέταρτον τιμήσαν ἐζήμιοτο τῷ ἀδικηθέντι, εἰ δὲ ἄλλῳ τῷ αὐτῶν φαίνοιεν. The amercement fell to the person injured, although another accused for him. If the fine were written down a thousand Drachmes, & the accuser had not the fift part of the voices, he paid two hundred and one Drachme, if it exceeded, a thousand, foure hundred and one. Ἔνδειξις is a Writ against those that owe to the City Treasurie, and yet goe about to beare office, saies [h] *Ulpian*, which by the *Attick* Law was utterly forbidden. The [i] Scholiast of *Aristophanes*, takes it for the accusing of any that did amisse in publique affairs; and the [k] Interpreter of *Demosthenes* in another place, ἐπὶ τῷ ἀτίμων,

a Ió Demost. pro Corona. p. 159.
b Orat. contra Lept. p. 296.
c Sir T. Smith Com. Wealth of Eng. l. 2. c. 10.
d In Vitellio.
e Pollux l. 8. p. 387.
f Demosthen. cont. Caricl. p. 699. n. 6. cont. Everg. & Mnesib. pag. 646. n. 90. cont. Steph. 1. & 2. p. 622. n. 9. contra Onetora. Εξουλ. β p. 528. n. 19. cont. Aphob. β p. 908 n. 97.
g Onomast. l. 8. c. 6 p. 387.
h In Demost. p. 391.
i In Equit. p. 303.
k Pag. 469.

[a] Doom.lib.8. p.388.

for men disfranchised. But [a] *Pollux* teaches us that it is a declaration made to the *Archon* against one taken in the maner; which the *Greeks* terme ὁμολογοφῶρα, [b] Schol. *Lucian.* ἐπ' αὐτῇ κλοπῇ, *Pollux* expresses by ὁμολογοφῶρα ἀδικήμασιν, when the offence is confessed. Because men so apprehended were forced to condemne themselves; no further evidence required then from their own mouths. By which acknowledgement of their guiltinesse, without greater triall, they received their doom; [c] as among us when a prisoner arraigned, confesses his inditement to be true, no twelve men goe upon him; there resteth but the Judges sentence of the paine of death. Whence grew our proverb, Confesse and be hanged. [d] *Pollux* ὁμολογοφῶρα ἀδικήμασιν, ἐκείνους, ἀλλὰ τιμωρίας ἔκτεμψε. He that thus made this declaration, was to subscribe his name, that if he were false, he might be liable to the Writ, ψευδοῦς ὑποδείξεως. The declaration was against men who were not present. Ἀπαγωγή, is a carrying of a man before the Magistrate, being taken in the fact, whom otherwise he was to accuse by declaration in his absence. By which a thousand Drachmes were endangered. In this ἀπαγωγῇ, they brought not all offenders to the same Magistrates, but according as they were made Judges of such and such offences; [e] sometimes to the eleven, sometimes to the [f] *Thesmothetæ*, sometimes to the *Archon*. Now if any man had found out any indebted to the publique treasury, or bound for those places or countries, where it was not permitted for him to go, or one who had committed murder, if by reason of weaknesse he durst not venture to apprehend the person, and ἄγειν, he would perhaps fetch the *Archon* to the house where such a party lay hid, which the *Attick* Lawyers terme ἀφηγεῖσθαι. Ἀνδροληψίου, is when a fellon hath committed murder, and flies for succour to any; [g] (as the Law suffered any to receive him) if the kindred of the slain or others had required the malefactor to be delivered to the, and the protector would not, it was lawfull to enter into his house, and carry away any three persons, as some translate it,

[b] In Rat. lit. 1.

[c] Sir T. Smith Commonw. of Engl. l. 2. c. 26. p. 281.

[d] Loco laud.

[e] Ulp. in Dem. p. 389.

[f] Idem. p. 407

[g] Dem. p. 416.

or

or all save three, ἄχρι τριῶν, as others, who were to answer for the outrages done. But who so entred unjustly, was not to escape unpunished. Εἰσαγγελία, saies *Ulpian*, is an accusation concerning great and publique matters, such as elsewhere he speaks of, to wit, the dissolution of the *Democracie*; or if an Orator had spoken what was not for the benefit of the weale-publique, if any went to warres before they were sent, or betrayed a garrison, army, or fleet. In other accusations, if the accuser had not a fift part of the suffrages, he was fined a thousand Drachmes, and lost the priviledges of a Citizen, in this he was uncontrolable. But in after time, because men would accuse presently for none, or small offences; therefore was there a law enacted, that whosoever accused by εἰσαγγελία, and had not the fift part of voices on his side, was fined a thousand Drachmes, although he lost not the priviledges of a Citizen. This εἰσαγγελία contained no written crimes, but was only by bare word of mouth; and as the accusation was given, so was the defence made according to the Law called Εἰσαγγελτικός. The Senate was *Judge* (*Pollux* saies that *Solon* made a thousand to sit on this, and *Phalereus* 1500. Where the interpreter erres. For οἱ περὶ πεντακόσιοι is 500. to them, as ὑπ' ἐκείνοις, in *Demosthenes*, and somewhat more) and whom they found delinquent, if in small faults, they fined; but if the offence were heinous, they committed him to prison. Thus much for publique actions; private were these that follow, more properly called δίκαι.

Αἰκίας δ'. is an Action against a man, who when two shall scuffle, gives the first blow, which the Greeks call ἔξαρχος πληγῶν ἀδίκων. [d] The matter was heard before the Judges; and though the Law ordained not any set summe of money for damages, yet it was permitted for the party smitten to write down what he thought fitting. The reason why these actions were so strictly looked into, was lest any not able to defend himselfe with his hand, should seek to revenge himselfe with stones, or other hurtfull weapon.

[a] Idem cont. Arist. p 415. *In Dem. p 58
[b] Eund p.453.

[c] Dem. p. 410. v. de Ulp. ibid. & Arg. Orat. cont. Everg. p.
[d] Sch. Arist. Conc. p. 745.
[e] Dem. cont. Con. p. 690.

a Idem ibid.

Κακηγορίας δ. Somewhat neare our proviso of giving the lye, left by taunting and reproachfull words, men be provoked to blowes. Βλάβης δ. Is when any man receives damage and hurt in estate by another man. b As to turne water into his ground, by which it is anoyed: c To refuse to pay money where it is required, or to give it to another. d To promise to bear witnesse in a suit, and then not to be present, by which the case falls, and the like. Παρακαταθήκης δ. About pawns, I suppose, which men that needed mony were wont to leave with the usurers, e as cloaths, houshold-stuffe, &c. Or about mony put to the banke, which the exchangers did imploy to the advantage of the owners, as I gather out of f *Demosthenes*. The word imports both. Ἀποστασίου δ. Of divorce. g For they were wont to put away their wives in former time, upon discontent or hope of greater portions; which divorce they called ἀποπομπὴν & as *Lysias* ἀπέπεμψεν on the husbands side, and on the wives ἀπέλιπεν, for hee did as it were turne her away, she was said to forsake him. Κακώσεως δ Of ill usage of parents, as not relieving them if they were poore. Of wives against husbands, of Pupils against Tutors. κλοπῆς of theft, after what manner soever. Which if it were by day, was not capitall, but by night was deadly. Χρέως δ. Such as our Act of Parliament hath allotted for extortion, it being by h Law provided in *Athens* that none should take too much use, although once allowed by *Solon*, that any might make the best of his money: which he termes i τόκου ἀγῶνα. Of usury I shall speake more in Chap. of money.

b Arg. Orat. Dem. contra Calliclem.
c Dem. cont. Callip. p. 680. n. 20.
d Dem. cont. Tim. p. 659. n. 25.
e Sch. Aristo. 337. E.
f Cont. Phor. p. 555. n. 7. 8.
g Vide Cujacium. Observ. l. 6. c. 15.

Συμβολαίων δ. When men had bargained and would not stand to it. k *Aristotle*. δίκαι περὶ ἀλλήλους περὶ συμβολαίων. Συνθήκης διαλύσεως δ When men broke the Articles which they made to each other, about dividing of inheritance between man and man, or between city and city, concerning free trading, as that of the *Carthaginians* with the *Romans*. *Arist. Pol.* 3. c. 6. or the like. l Theſe συνθῆκαι were usually confirmed by oath to each other. Διαδικασίας δ. m a contention

b This is reckoned among the Lawes which were made for private men. Ulp. in Dem. p. 481
i Vi. Calaub. in Theoph. p. 291. Char. περὶ Ἀποστάσ.
k Polit. l. 2. c. 3
l Dem. p. 651. n. 13.
m Ulp. in Dem. p. 62. & 310.

tion about bearing office, in which they seek to have a time appointed, when a man shall enter into it. For the discharge whereof they are to prove him fit. Ἐπιδικασίας δ'. When parents died and left their daughters inheritrices, the kindred was wont to sue each other, to make it appeare who was neareſt joyned in blood, that he might marry her. Hence a Virgin to whom an inheritance falls, is called ἐπίδικος, that is, *Controverſa*. Μισθώσεως οἴκου δ'. About letting of houses. (For *Herodotus* termes that ἐμισθώσατο, which other Greek writers μισθῶσαι, it is well to set to hire, as to take rent, ἀμισθῶν and ἐκμισθοῦν, to let out. Which they often did for want of mony, which that they might obtaine the quicker, they wrote over their dore as we use to do, **This House is to be let.** Which custome *Menedemus* in [b] *Terence* expresses--*Inscripſi ilico*, ÆDES MERCEDE.) This Writ was properly against Guardians of Orphans (not concerning men of years, such as immediatly is before spoken) who having taken the charge upon them of tuition, were to imploy for the benefit of their Pupils what was left them: they therefore made known to the *Archon* that such a house was to be let, he then put it out upon some pledge for security. But if the house were let under the yearly rent it could bring in, or was suffered to remaine void of a Tenant, to the losse of a Pupill, then was it lawfull for any man to sue the Guardian in the *Arcons* court, upon a Writ of Μισθώσεως. Ἐπιτροπῆς. I have observed it to have been a custome among the Ancients, when they perceived themselves to draw neare to death, to call for some one, to whose care they would commit their children, and delivering them into their hands, beseech them to have a tender eye over them, and to provide for them, what should be most convenient; such as *Oedipus* in [c] *Sophocles* entreats of *Theseus* in the behalfe of his daughters -Ω φίλον κάρα. Δός μοι χεῖρ' ὅπως πίσυν ἀρχαίαν τίλλοις, Τμεῖς τε παῖδες τῷδε κ' κατάνευσον Μήποτε ἀφ' ὑμῶν τὰς δ' ἐκὼν, τελεῖν δ' ὅσ' ἂν Μέλλῃς φρονῶν δ' ξυμφέρειν τ' αὐτὰς σέ. Not unlike is that of the [d] *Comedian* under the

[a] Pollux l. 3. c. 3. p. 136.

[b] Heaut. Act. 1. Sc. 1.

[c] Oedip. Col. p. 314.

[d] Ter. Andr. Act. 1. Sc. 5.

the perſon of *Cryſis*, committing *Glycerium* to the Tuition of *Pamphilus*.

Acceſſi: ves ſemotæ: nos ſoli: incipit:
Mi Pamphile, hujus formam atq; ætatem vides:
Nec clam te eſt, quàm illi nunc utræq; inutiles
Et ad pudicitiam, & ad tutandam rem ſient.
Quod ego te hanc per dextram oro, & ingenium tuum,
Per tuam fidem, perq; hujus ſolitudinem
Te obteſtor, ne abs te hanc ſegreges, non deſeras.
Si te in Germani fratris dilexi loco;
Sive hæc te ſolum ſemper fecit maximum,
Seu tibi morigera fuit in rebus omnibus.
Te iſtum virum do, amicum, tutorem, patrem:
Bona noſtra hæc tibi committo, & tuæ mando fidei.
Hanc mihi IN MANUM DAT, *mors continuò ipſam occupat.*

But among the *Athenians* the uſe was to nominate in their Teſtaments and laſt Wills, whom they would have to bee Guardians. Which office after they had undertaken, if they ſhould defraud the Orphans of their patrimonie, or any part thereof, they were ſued with a Writ ἐπὶ ξυμοῖς, as [a] *Demoſthenes* did ſue his as ſoone as he came to age. But if the matter were not queſtioned within five yeares after the pupill was admitted among the number of men, by the [b] Law the Guardian could not be taxed. Απροσαίς. Of a Maſter againſt a Servant ingratefull for his manumiſſion, not doing his duty to his Maſter. Becauſe, as [c] *Demoſthenes* witneſſes, it was the nature of ſervants once made free, not only to be ingratefull, but alſo to hate their Maſters moſt of all men, as thoſe who had been conſcious to their ſervitude. It was enacted therefore that whoſoever was convicted of ingratitude ſhould againe be made a bondſlave. **Valerius Maximus. Age quid illud inſtitutum Athenarum, quam memorabile? quod convictus à patrono libertus ingratus, jure libertatis exuitur.* The Romans did not only acquit them of the liberty of the Citie (which

a Plut. in vita ejus.

b Demoſth p. 724. n. 22.

c Pag. 465.

* Lib. 2. c. 1. p. 670.

(which the *Athenians* gave not) but made them also slaves, which punishment they terme [a] *Maximum capitis diminutionem.* Σίτου. If any man put away his wife hee was to restore her portion again; if he refused he was ἐπ' ἐννέ' ὀβολοῖς τοκοφορεῖν, that is, every month for one pound to pay nine *oboli* which the *Attick*s terme [b] φερνικὸν τοκικὸς, the revenew of her dowrie The Writ whereby he was sued was Σίτου δίκη, [c] for the repayment. [d] Ἐνοικίου, If any went to Law, as claymming Title to an house, he was first to serve him that dwelled in it with a Writ, ἐνοικίου, by which he demands his rent for the time the defendant had the house; if it were for any parcell of land, there was a Writ καρπῆς given out, for the provent and fruit thereof; afterwards (in both cases alike,) they proceeded to an οἰκίας δίκη, in which they claymed right and title to the house or land. Although in all these trialls the defendant were cast, yet could he keep justly either house or land: but if in a third triall, which they call ἐξώλης, he were overthrown, he was compelled to relinquish his possession. This ἐξώλη also is a Writ against those that would cast an inhabitant out of his house, it being termed from ἐξέλαυν, to throw forth. [d] It is also a Writ of Execution against any overthrown in the Court, and fined a thousand Drachmes, which at such a day he was to pay; and if he laid it not down upon the nail, there went forth a Writ ἐξώλης, to make enter upon the lands and possessions of him so cast. It is also a Right against any who wil not suffer him, who hath bought any thing of the publik, to reap the fruit thereof. Who either with-holds any thing from the owner, or violently takes from any, &c Εἰς διαιτητὰς αἵρεσιν. When two had been partners in estates, and one of them would have a dividence made, if the other refused, hee might be constrained to it by the Writ. Βεβαιώσεως, Because the Market place among the Greeks was the fittest to cheat & cosen in, as [e] *Anacharsis* was wont to say, therefore the *Athenians* enacted that none should buy in the market place (to which the *Scythian* wisemen pointed likewise, saying, that they

[a] Justin. Inst. l.1.T.16.

[b] Demost. p. 733.

[c] Dem. pag. 655. n.58.

[d] Ulp. in Dem. P.340.

[e] Apud Laer. p.74.

they forbad to speak falſe, and yet did in Ψευδομαρτυρίων δίκαις) if any man had bargained for any thing, and another ſued and doubted of the right of it, [a] he might require the ſeller to confirme the lawfulneſſe of the thing ſold, and maintaine it againſt all controuerſie, otherwiſe the ſeller was liable to Βεβαιώσεως δίκη. For although in *Athens* they bought for the moſt part *Greek fide*, with ready mony; as [b] *Scaliger* and [c] *Caſaubon* truly interpret it, [d] *Turnebus, Repreſentatâ pecuniâ*: yet ſometime gave they Earneſt only to make the thing ſure, which the *Greeks* and *Latines* call [e] ἀρραβὼν, from the [f] *Hebrew* ערב. This ſeemes to me to have been the hundreth part of the mony which was to be paid for the thing bought, as [g] *Stobæus* out of *Theophraſtus*: Where you may read likewiſe that it was the cuſtome, when any thing was to be ſold, to bring a note thereof to the Magiſtrate ſome threeſcore daies before. Εἰς ἐμφανῶν καλάσασιν, for the laying open of any thing, concerning which was a ſuit in law, by [h] *Pollux* his words I may conjecture, goods or mony privily taken away. Ἐξαιρέσεως δίκη. When any ſhould offer to take another mans ſervant, and make him free againſt the will of the Maſter which the Greeks terme [i] μὴ δικαίως ἐλευθερίας ἀφελέσθαι. Ἀμφισβήτησις is a ſuit about nearneſſe of blood, in matter of inheritance, when a man dies without iſſue of his own body. Παρακαταβολὴ. When a man went to prove that he was to challenge the inheritance of right, as near of blood, or upon ſome other conditions: from παρακαταβάλλειν, becauſe he laid downe the tenth part of the inheritance, which if he were caſt in Law, he was to pay, if the cauſe were private, ſaies [k] *Budæus*: but if publique, the fift. [l] Διαμαρτυρία. When any ſhall proteſt that an inheritance doth hang in controverſie, and is ἔτι δίκαιος, as a true heire being ſtill alive, of which thing chiefly treats the Oration of *Demoſthenes* againſt *Leochares*. Ἐπίσκηψις. When any ſhall try to falſifie the διαμαρτυρία. Ἀίτιχαφὴ. When men went to Law about kindred, as to prove themſelves of ſuch and ſuch houſes.

Απεγραφὴ.

[a] Pollux l.8. c.6.p.385.

[b] In Auſon. Lect.l.2.c.6.
[c] In Theop. Char.p.212.
[d] Adverſar. rum l.4.c.13
[e] Don. Quod prius datur, ut reliquum reddatur. in Ter. Heaut. Act.3. Sc.3.
[f] Vide Daſq. in Baſil. Sel.
[g] Sermone 24.
[h] Onomaſt l. 8.c.6.p.384.
[i] Demoſt. p. 718.n.29
[k] Pand. Prio. p.100.
[l] Dem.p.620. n.78.

Here followeth the termes promiſcuous, private and publique, which are publique and law full for any to proſecute. See Pollux, pag. 386.

Ἀπροστασίου. All ſtrangers in Athens were compelled by the Law to get them Patrons (as my moſt worthy Schoolmaſter the glory of his time,[a] Mr *Matthew Buſt* hath obſerved, whom for honours ſake I name) or elſe they might bee queſtioned, and if they were convicted their goods were ſold and put into the City Treaſury. Ἀχαριστίας of ingratitude againſt thoſe who ſhewed not themſelves thankfull to thoſe who had well deſerved of them. Ξενίας the ſame with ἀπροσύνιον, when any will reckon himſelfe among the number of Citizens who hath never been made free, by which he purchaſed impriſonment untill ſuch time as there was a Court kept, and then he was ſold. Μαρτυρία, when a man is eye witneſſe of a matter. Ἐκμαρτυρία, when an other witneſſes from the report of him that ſaw it. Ψευδομαρτύριον falſe witneſſe, which to proſecute in Law they terme δίκην ψευδομαρτυρίου. Λειποματρτύριον, when one was eyewitnes and promiſed to teſtifie, yet would not appear at the appointed time, which they were wont to compell them to do, which they call κλήσεις, after which citation the party was to be at court, or forſwear that he ſaw not the matter, or was not preſent; otherwiſe he was to pay a thouſand *Drachmes*, in which ſumme to be fined the *Atticke* Laywers give the appellation ἐκκήκτου ἕδρας. Δώρων γραφή, when the Judges were corrupted with bribes. Δεκασμοῦ againſt thoſe that did corrupt them. Ἀργίας of a man convinced of idleneſſe, which once taken *Draco* puniſhed the delinquent with loſſe of the City priviledges, *Solon* not unleſſe hee were thrice delinquent. Λειποναυτίου, when any of the Marriners ran away from their ſhips. Ἀναυμαχίου, when the Marriners that ſtaied in the ſhips would not fight, if occaſion required. Ψευδογραφῆς, when any would falſely accuſe, there was likewiſe againſt them a writ δίκη ψευδοσίτου. Ψευδοκλητείας Againſt thoſe that unjuſtly cite to the Court. Ξενοποξενίας, when any is accuſed of encroaching into the number of Citizens, and gives gifts to eſcape free. Παρανόμων, when any

[a] In Epiſt. Dedic. ſuo Euchaitenſi præfixa ad Richar. Cantuarienſem Archiepiſcopum.

any was accused of making a decree or Law contrary to former statutes. This accusation was called γραφωσία, because the accuser swore that it was against the Lawes or unjust or inconvenient for the Commonwealth. Δοκιμασία was an examination of the Magistrates whether they were fit to governe or no. Whether the Orators were not given to Lust and incontinency, whether they had not spent their patrimonies or dealt unkindly with their parents or led a life any other waies blameable, whereupon they were discarded the priviledges of the City, and not suffered to plead or speake publickly. Εὐθυνὼν An account of publicke offices borne, laying out of mony and dispatching Ambassages, made to the Tenne *Legistæ* (for the breach of which went out a Writ, Λογίς λόγον δοῦναι, *Rationem reddere*) if concerning injuries given to the Judges. Περὶ ὀλῆς an accusation against those who are ill affected toward the Commonwealth, made by the decree of the people, and such as are welwishers to the state. Περὶ ὀλῆς, likewise are accusations against men injurious ἐξυβρίσωσι, [a] and such as are delinquent against their festivalls, as the oration of *Demosthenes* against *Midias*. Περὶ ὠσία, An oath which the accusers tooke that he would justly accuse. [b] Ἀντωμοσία, The defendants oath that he had done no wrong. Ἐξωμοσία, an oath of Ambassadors or men chosen for state service, that by reason of sicknes they cannot give attendance. They may do it by a proxie if they please. It is likewise the oath of one called to witnesse, wherein he sweares that he knowes nothing of the businesse. Ἀπωμοσία, When others shall sweare that pretended weaknes was only a shift to put off the burthen of publique office which the state laid on them. Τιμωσία an accusation of Law or decree unprofitable, against the motioner, as above said. Παραγραφὴ & προμαρτυρία, when a man shall object a case not to be entred tightly, that the writ ought to be such and such, and not as it is *ex. gr.* for a man that runs away from the Army, which is λιποταξίου, and I accuse him of

[a] Lib. Arg. in Medianam.

[b] Ulpian in Dem. 226.

of leaving his ranke, to wit, λειποταξίν, or objection of the time past within which space the suit was to be commenced, or that it should be handled in such a Court and not in such, as wilfull murther in *Areopagus* not *Palladium*, by which evasion if the case fell it was termed ἄγεσπᾶς. Ἀπροφάσιστος, when he that is sued puts in a bill against the Plaintif in like manner. But if the Defendant (I call αὐτοκαλαμένον so) were cast hee payed ἐπωβελίαν. [a] Μὴ ἔτα, when a man is summoned to answer before the Arbitri a controversie, if he sweare that he is sick or pretends a journey from home, and appears not at the day appointed, he was cast in ἐρήμη *Eremodicio*, as if he scorned to come, or were obstinate, hee ought within ten daies to sue out μὴ ἔσαν, wherein hee reproved the sentence, and made it of no effect so as it came to its first state againe. But if he could not obtaine a μὴ ἔτα, having before sworn that he would stand to the award of the Judges, their determination stood in full strength and power and he was constrained to pay a thousand drachmes, as [b] *Ulpian*, which was the mulct appointed by the law, for the discharge whereof he put in good security, Ἀπλαγχάνειν δίκλυ, When any was absent from the Court, or heard not his name called by the Crier to answer thereunto he was fined, as conscious of *Eremodicium*, and if within the space of two Moneths he did not renew the suit (which is αὐπλαγχάνειν δίκλυ) he was sure to pay the fine. Ἐπισκήψασθαι, when any man will challenge out of goods forfeited and publikly sold somewhat as debt to him, or say that part belongs to him the state would narrowly search into it, which thing they terme ἐπισκήμμα. Πρόκλησις, is a citing of one before the *Archon* in controversie about inheritance, or a virgin left inheritrix. Now if the Plaintiff did not warn the Defendant ἢ ἐπισκήψασθαι, the suit died, and such actions are called ἀπροκλήτους δίκας. [c] Πρόκλησις, is as letting a case fall or dissolving it upon some witnes, oath, confession extorted by torments, and the like. Ἔφεσις is an appeal from one court to

[a] Ulpian in Dem. 343.

[b] In Dem. p. 340.

[c] Dem. p. 623.

the other, as from the Senate to the people, and from the people to the Senate againe, or from their Judicatories as home to some forrainers in another Country. Ἀτιμία & δίκη when there is no more fine laid upon a man then what his adversay did ἐπιγράφειν, write downe at the lower end of his inditement; of which custome somewhat hath before been spoken. Βολίτου δίκη, Against such as stole oxe dung out of their neighbours lands; whence of those that are put in the court for triviall matters the proverb [a] Βολίτου δίκλω. Ἀσεβείας of impiety against their Gods, as *Aristotle* for his hymn on *Hermias*, Tyrant of the *Atarnenses*, which he engraved on a statue at *Delphos*. For revealing mysteries, or imitating them as *Alcibiades*. Of which if a man were convicted he was put to death; as on the contrary the accuser if he got not the better. Προδοσίας, of being false to the state, the punishment was death, and after that, that they should be cast out of the Territories of *Athens* unburied. [*] Ἀγραφίου, If any owed to the City Treasury, and his name were registred, and before the discharge of the mony his name were blotted out, they sued him before the *Thesmotheta* ἀγραφίου, but if his name were never entred he was prosecuted by an ἔνδειξις, Μεταλλικαὶ proper only to such as dealt in the mines, like to the Stanneries in the County of *Cornwall* my Country, and *Devonshire* her sister. [b] Lyable to this Court were they who should thrust any man from his work, who should dig within anothers mans liberties, who should bring weapons thither, I suppose to take away Minerals by violence, who should kindle any fire in the Mines, &c. who should offer to take away the props that upheld the weight of the incumbent earth, which to do was death, as [c] *Plutarch* tels us. There was likewise ἀγραφὴ μετάλλου against the labourers in the Mines, who if they intended to begin a new work were to acquaint the overseers appointed for that end by the people, that the foure and twentieth part of the new coine might come to the publique Treasurie. Now if any presumed

[a] Aristoph. Sch. p. 328. Laertius in vita.

[*] Dem. cont. Theocr. pag. 723. n. 76. 77.

[b] Dem. cont. Pantæ, p. 568. n. 51. 52.

[c] In vitis Decem. Rhet. p. 453.

med to work who had not made it known to the officers, it was lawfull for any to accuse him, ἀγεγράφθαι μεταλλεῖ. Ἀφορμῶς δ'. About mony put out to the mony changers. [a] For ἀφορμὴ among the *Atticks* is the same that ἐνθήκη in the lawyers of latter time, *in Jure Græco-Rom.* Sometimes indeed they used ἀφορμὴ for meanes and sustenance, [b] προσοδὴ εἰς τὸ ζῆν. Κατα-δικάσας and καταδικασάμενος have this difference, that [c] κατα-δικάσας is the Judge that gives sentence, καταδικασάμενος is he that put in the controversie, to be the meanes that the sentence past against the defendant. [d] Ἄφεσις is when a man deeply indebted pretends that he is not able to discharge all, and therefore desires the people that a part thereof might be remitted.

a Argum Pherm. Orat. p.554.

b Sch. Eurip. Med.p.368.

c Ulpian in Med.p.368.

d Idem in Dem.p.450.

FINIS.

ARCHÆOLOGIÆ ATTICÆ LIBRI TRES.

THREE BOOKES OF THE ATTICK Antiquities.

CONTAINING

The description of the Cities glory, government, division of the People, and Townes within the *Athenian* Territories, their Religion, Superstition, Sacrifices, account of their Year: as also a full relation of their Judicatories.

By FRANCIS ROUS Scholler of *Merton* Colledge in *Oxon.*

ARISTIDES.

Περὶ πλησίοι τὰς ἀκοὰς, ἐπηρχόμεθα, μεῖζον ἔχοντες ἔργον ὅ, τι φυλαξόμεθα ἢ ὅτῳ χρησόμεθα, ἐυξεῖν. When others have in the same Argument preoccupated mens eares, they that speak afterward of the same subject, have a greater trouble to consider what they must passe by unsaid, then what to say.

LONDON,
Printed for JOHN WILLIAMS, and are to be sold at his shop in *Pauls* Church-yard at the signe of the Crowne, 1645.

UM

TO THE

RIGHT WORSHIPFVLL

Sr NATHANIEL BRENT Knight,

Vicar Generall, and the moſt vigilant

Warden *of* Merton College

in OXFORD, Health,

&c.

LIBER TERTIVS.

CAP. I.

De Legum latoribus Atticis. Νόμοι, ἄγραφοι καὶ ἔγγραφοι. Ψήφισμα. Προβούλευμα. *De sanciendis Legibus.*

[a] Lib. 2. p. 27.

AS Justin hath been too forward in relating the mutation of the *Athenian* government, passing by the perpetuall and decennal Consuls, and naming only the yearly: so hath he erred in the originall of their Laws, making *Solon* the father of them. But it seems otherwise. For, as [b] *Gerardus* hath observed, *Theseus* gave Lawes to the *Athenians*. And [c] *Plutarch* witnesseth, that when he congregated the *Attick* people, and constituted a *Democracie*, he reserved only to himself the government of war and custodie of the Lawes. δημοκρατίαν (προσεῖπεν) αὐτῷ μόνον ἄρχοντι πολέμου καὶ νόμων φύλακι χρησαμένῳ. Adde to this, that before the knowledge of letters & writing, it was a custome among the ancients to sing their Laws, lest they might forget them, used in the daies of [d] *Aristotle* by the *Agathyrsi*, a people neare to the *Scythians*. Whence afterwards the

[b] Arist. Plut. pag. 67.
[c] In Theseo p. 8. l. 2.
[d] Problem. μ. 18. ἀρχ. ἡ. fol. 189. b.

rules

rules of Muſick, for the true keeping of time, ſinging, & playing, are ſuppoſed to bee called Νόμοι. Neither may it bee thought otherwiſe, becauſe all the notes of the [a]*Lydian, Hypolydian, &c. Dorick, Hypodorick, &c. Phrygian, Hypophrygian, Ionick, &c.* ſonge were diſtinguiſhed by the Alphabet. Yet [b]*Plutarch* is of opinion, that they derived the word from thoſe bounds, which the Muſitians of old preſcribed, for the tuning of voices or inſtruments, leſt they ſhould be confounded; and therefore he calls it, οἰκείαν τάσιν. [c]*Idem.* Νόμοι ὃ προσηγορεύθησαν, ἐπειδὴ ἐξ ὧν παραβλῶσι καὶ δέχεσθαι νενομισμένου εἰσὶ τὰ τάσεως. The *Greekes*, ſaies [d]*Cicero*, thinke the cauſe of this word, *jus ſuum cuiq; tribuendo*, intimating νέμειν, which ſignifies to diſtribute, becauſe the Law gives every man his due. Thus ſee we, that there were Laws of yore, let [e]*Juſtin* ſay, *Nulla civitati leges tunc erant, quia libido regnum pro legibus habebatur*; That the City was without Law, becauſe the wills of Kings were Laws. In ſucceeding ages, and before *Solon* too, *Draco* gave Lawes, living about the three [f]hundred and ninth *Olympiad*. His Acts, ſaies [g]*Ælian*, were called θεσμοί. Ἐκαλοῦντο δ' ἐκεῖνοι θεσμοί. Now θεσμὸς, by [h]*Ulpian* is interpreted νόμου διδασκαλιάν τινος δεῖ νομοθετεῖν. A Law giving in precept how to make a Law. And yet [i]*Ariſtotle* calls them νόμους, giving them this commendation, that they are not worth remembrance, but for their great ſeverity. Which gave occaſion to [k]*Herodicus* to ſay, that they were not the Laws of man, ἀλλὰ δρακοντος, in a double ſenſe of the word which is alſo put for a Dragon. And [l]*Demades*, that they were not written with black, but bloud. For he puniſhed every peccadillo almoſt with death, thoſe that were convicted of idlenes, or ſtealing of pothearbs, alike the ſacrilegious and man-ſlayers. Wherefore were they made of none effect by *Solon*. For he abrogated all, except thoſe which concerned murther, intituled ΦΟΝΙΚΟΙ ΝΟΜΟΙ. Him ſucceeded * *Solon*, a man ſo well tempered, and equall betwixt the Commons and the Peers, that he was beloved of both

a Vide Alypium in Iſagoge Muſica.
b In libro de Muſica.
c Loco citato pag.437.
d De leg.lib.1. fol.16.b.
e Loco laudat.
f Clem. Alex. p.226.
g Variæ hiſt. l.8 c.10.
h Arg.orat. con.lept.
i Polit.2.c.10.
k Ariſt.Rhet. l.2.c.44.
l Plut. in Solone. p.63.l.2.
* Demoſth. p.70.
*His lawes continued 100 years, ſayes *Plutarch*, in ſtrength. In Solone p.66. and afterward by little and little decayed. Ælian. Var. hiſt.l.2.c.22. If any ſpake againſt them, he had corporall puniſhment.

both, having ſtill a care, leſt while he ſhould ſide with one, he might diſpleaſe the other. Whom, for his uprightneſſe, [a] *Juvenal* ſtiles *Juſtum*, and for the care of the Republique, which [b] *Demoſthenes* averres he had in all his Lawes, [c] *Ariſtophanes* termes, φιλόδημον, a lover of the people. [d] *Plato* brings him learning his Laws from a *Barbarian*: And [e] *Plutarch* tells us that he travelled afterwards into *Ægypt*. But it ſeems by [f] *Ammianus Marcellinus*, that in the making of his laws he had the approbation and judgement of the *Ægyptian* Prieſts. *Et Solon adjutus ſententiis Ægypti Sacerdotum, latis juſto moderamine legibus, Romano quoq; Juri maximum addidit firmamentum.* [g] *Diodorus Siculus* relates two things brought from thence to the *Athenians* by him. Firſt, that all the *Ægyptians* were compelled to bring to the governours of the countries their names written, and by what meanes they ſuſtained themſelves; wherein if any were found falſe, or that lived by unjuſt gain, he fell into danger of life. Secondly, it was a cuſtom among them, that payment ſhould be made only with the goods of the debtor, and that the body ſhould not ſuffer. For they thought the eſtate alone to be ſubject to the creditor, the body addicted to the Cities in which they lived. Neither was it fit that Souldiers, who were to undergo hazard for their country, ſhould for uſurie be committed to priſon, or the country be in jeopardy for the avarice of ſome one man: Which induced *Solon* to make the firſt decree, as [h] *Laertius* and [i] *Plutarch* ſay, of freeing the bodies; which, if there were not wherewithall to ſatisfie the craving loaner, were compelled to ſerve. He therefore cut off all *æſe*, [k] as ſome write, or elſe [l] leſſened the burthen of it, making it more moderate by his Law Σεισάχθεια· ſo called from Σείειν, to ſhake off, and ἄχθος, an heavy weight. Forgiving himſelf firſt, [m] as *Laertius*, ſeven talents; or, as [n] *Plutarch*, five. But this ſeems to have been done for the avoiding of the aſperſion caſt upon him as acceſſary to the injuries of ſome, who having an inkling of his intent, borrowed much

[a] Sat. 10. verſ. 274.
[b] Κατὰ Ανδρ. pag. 390.
[c] Pag. 190.
[d] In Timæo.
[e] In Solone p. 66. l. 31.
[f] Lib. 22.
[g] Bibliothec.
[h] Initio vitæ Solonis.
[i] In Solone p. 62. l. 8.
[k] Plutarch. p. 62.
[l] Androtio.
[m] Loco laud.
[n] Pag. 62. fifteen ſaies Polyzetus Rhodius.

much money with hope of never making reſtitution.[a] *Caſaubon* is conceited, that this was not his firſt exloit, but long after he had ſate at the ſterne of the Weale-publique. Yet it ſeems probable; there being no more compendious way to make a man popular, then to give liberty to the common people. Which he, to bring an innovation of Laws, did willingly invent; and they afterwards lovingly accepted. For in teſtimony of their approbation, they kept a feſtivall named [b] Σεισάχθεια. Here likewiſe may you obſerve the ancient flattery of the *Athenians* towards their owne vices, putting gilded names on thoſe things, which themſelves were aſhamed of, calling [c] πόρνας, ἑταίρας; φόρον, συντάξεις; φυλακὴν, φρουρὰς τῆς πόλεως, δεσμωτήριον οἴκημα, &c. as our blades name drunkenneſſe good fellowſhip; whores, ſhee ſinners; and nigardiſe, thriftineſſe; ſpringing from this roote of *Solons*, who called χρεῶν ἀποκοπὴν Σεισάχθειαν. [d] To theſe Lawes two ends were propoſed, mutuall commerce, and direction of behaviour towards the ſtate. To curbe wickedneſſe, and unjuſtice; and to puniſh offenders that they may be bettered. And although they were the ordinances of *Draco* and *Solon*, yet may wee fitly call them the *Athenian* Civill Law. Each Citie, as [f] *Juſtinian* teaches, giving a denomination unto her Statutes. *Nam ſi quis velit Solonis vel Draconis leges appellare jus civile Athenienſium, non erraverit.* They were engraven in tables of wood called [g] ἄξονες, triangular, if we may beleeve the [h] Scholiaſt of *Ariſtophanes*, who quotes *Ariſtotle* and *Apollodorus*, witneſſing that they were called κύρβεις, alſo τὸ κανοῦν ἐφ' ᾧ τὸ ὕφος ἀπετείνετο, from the elevation. [h] Some are of opinion that the rites pertaining to the gods, and their worſhip were written in the *Cyrbes*, and Lawes belonging to men in the *Axones*. *Apollodorus* ſayes that all decrees are called *Cyrbes*, becauſe they were written in ſtone; and ſo ſet up, [i] which from their ſtanding, were termed στῆλαι. I know that decrees, merits, praiſe and diſpraiſe too, were written in ſtone. Whence [k] λογὸς στηλιτικὸς may be put for a Treatiſe

[a] In Laert. p. 14.
[b] Plutarch. p. 62. l. 43.
[c] Plutarch. loc. laudato.
[d] Demoſt. p. 477.
[e] Idem p. 484.
[f] Inſtitut. l. 1. Tit 2. Sed jus quidem civile ex unaquaq; civitate appellatur, veluti Athenienſium
[g] Sch. Apollo. Rho. Argo. 4.
[h] In Avibus pag. 604.
[i] Vide Plut. pag. 66.
[k] ἀπὸ στάσεως.
[l] Vide Nonnum in Nax. στηλ. α.

tending to a mans disgrace. But this by the wey. Theſe Tables were kept in the *Acropolis*, tranſlated afterwards to the *Prytaneum* by *Ephialtes*, where to the dayes of [a] *Plutarch*, ſome reliques of them were to be ſeen. The *Autographon*, or copy written with his owne hand was not removed, but thoſe that were tranſcribed by them. Becauſe in matters of doubt and controverſie they might have recourſe unto them. *For the diſtinction of which, ſome think that ὁ κάτωθεν νόμος is uſed in *Demoſthenes* for that in the *Prytaneum*. Others for the Law in the lower part of the table; but to me it ſeemes improbable, for then the number of the table ought to be cited; and indeed, one Table ſometime could not containe a Law. For we read in [b] *Plutarch*, that the eight Law was cut in the thirteenth Table. I am not averſe from the gueſſe of *Petitus*, who ſuppoſes the Orator to meane the Law which afterwards he quotes; not ignorant of the opinion of ſome, who think that it is to be underſtood of the under line. For the Lawes being written βουστροφηδὸν, *converſo ſive retrogrado literarum ordine*, ſaies [c] *Silburgius*; which [d] *Pauſanias* explaines, ὅτι πάλαιοι ἐκ δεξιῶν, from the right hand to the left, or more ſignificantly, Ἀπὸ τῆς πέρας τῆς ἑτέρας ὁδοῦ ἐπὶ τὸ δεξιὸν τὸ ἕτερον, ὥσπερ ἐν διαύλῳ δρόμῳ. When the ſecond verſe begins at the end of the former, as in the race which they call *Dianlus*, or if I ſhall ſpeake neareſt to the word, as his bandmen turne their Oxen when they plough, as for example.

ΕΚΔΙΟΣ ΑΡ
ΥΘΞΗΙΩΥΧ

Seq thoſe that have written of divers waies of writing.

They therefore take the lower, that is turned, ὁ κάτωθεν νόμος. After this manner were the Lawes written, and doubtleſſe there were ſome cuſtomes as ſtrong as Lawes. For although the *Lacedæmonians* governed by tradition of cuſtome, and the *Athenians* by written ſtatutes, as [e] *Joſephus*, yet ſurely had their cuſtomes great force, inſomuch as [f] *Ariſtophanes* uſes νόμος for ἔθος. Ἀλλὰ νόμῳ προσθέμενοι. [g] *Scholiaſtes*. νόμοι γάρ εἰσι πάντα τὰ γινόμενα ἐπὶ καὶ τὰ ἔθη. So did the [h] *Greekes* divide

a In Solone pag. 66.

*Pollux. l. 8. pag. 408.

b Solone pag. 63. l. 37.

c In Pauſaniam p 426.
d In Eliacis pag. 174.
e Eodem lib. pag. 165.

f Contra Appionem. Vide Juſtinianum. Inſt. l. tit. 2.
g In Avibus pag. 576.
h Pag. 577.
i Vide Juſtinianum.

deide their Lawes into ἔγγραφον & ἄγραφον, written and unwritten. The unwritten, *sine scripto jus venit, quod usus approbavit*, use. The [a] Interpreter of *Sophocles* thus. Νόμος ἔστιν ἔγγραφος συνήθεια, συνήθεια δὲ ἄγραφος νόμος. A Law is a written custome, and a custome an unwritten Law. Besides these there were decrees, which they termed ψηφίσματα, *psephismata*, a word used by [b] *Cicero*, nothing different, ψηφισμάτων ὑμῶν διαφέρειν οὐ νόμῳ. [c] *Demosthenes*, who meanes in vertue and power. For they differ much. [d] A Law maintaines justice once found, common for ever. A *Psephisma* follows the necessity of the time, as it differs in events: it directs not warlike affaires, but is applied unto the occasion of arms, and as lawes can be abrogated, so degrees changed. And here ought we to note, that no decree is greater then a Law. Of decrees there were two sorts [e] [f] Βουλῆς ψηφίσματα, such as the Senate by it self established, which were but of twelve moneths continuance; to the confirming of which, the people were not convocated, or their consent required, termed [g] προβουλεύματα, which *Demosthenes* proves to be ἐπίτεια. *Ulpian* ἐπ' ἐνιαυτόν. Like to the edicts of the Roman Prætors which lasted but a yeare. [h] *Cicero*. *Qui plurimum tribunini edicto, Prætoris edictum legem annuam esse dicunt.* In other decrees the opinion and good liking of the people was asked, for the giving of the authority unto them, which endured in force a longer time. [i] Καὶ τὸ νόμῳ πλείονα, καὶ πλείονα χρόνον. And therefore wee may easily know a *probulenma* from a decree of the peoples confirming, by this observation. Ἔδοξε τῇ βουλῇ only, gives us to wit, that it is a *probulenma*. Ἔδοξε τῷ δήμῳ, in the beginning of a decree, shewes it to be ψήφισμα παρὰ δήμου κύριον καὶ κάμπτον. The Senate alwaies sate in consultation about that which was to be enacted, whether any damage might accrue to the State by it or no, the Law commanding that no decree should go forth without deliberation. [k] ἀπαγορεύειν ψήφισμα μὴ εἰσφέρειν ἐν τῷ δήμῳ. Which done, the *Prytanes* took certain Tables and wrote on them,

[a] In Ajacem Locatium.
[b] In Orat. pro Flacco.
[c] Cont. Lept. p. 296.
[d] Aristides. Tom. 2. p. 30.
[e] Demosthen. pag. 416.
[f] Demosth. κατ' Ἀειστοκράτους. p. 417.
[g] Ulp. in Dem. p. 418.
[h] In Verr. 1.
[i] Ulpian loco laudato.
[k] Ulp. in Arg. Orat. And. p. 181. Vide Dem. p. 182, n. 10. vi. Plut. Solone. p. 63. l. 31.

Such or such a day, about such a time there should be an assembly to consult of these and those affaires: and this they called [a] προγραμμα. When then they were assembled, and the people purified, the decree was read; which if the people allowed of, stood; if not, decayed. It was forbidden that any should raze out a Decree of any Table. And he was brought in question of life, who should presume in making a decree to pretend a fallacie. Now because future time might haply perceive some inconveniences to arise by oversight in their Lawgiver, and that abuses should happen, which in his dayes were not discerned, so there would be a necessity of making new statutes: It was ordained therefore that every yeare there should be ὅτου χρεὼν νόμων, which [b] *Ulpian* expounds διόρθωσις ὅ, τι δεῖ ποιεῖν περὶ τῶν νόμων. A consideration of what ought to be done concerning the Laws. [c] The manner was thus: Every eleventh day of July in the assembly after the Crier had made his prayes, as his fashion was, and shall anon be spoken of, the Laws were read over in order. First, those which concerned their Senate, next the weal-publique; and thirdly the nine *Archons*; & afterwards the other Magistrates. Then was it demanded if there were Laws enough for the Senate, and so for the Common-weale, &c. If any of the Laws in force were to be abrogated, it was adjourned untill the last of the three daies of the 3 Convocations. On which the *Prytanes* appointed for the reviving and reciting of the Lawes, were to take the matter in hand. The *Proedri* chiefe of the Assembly, were to [d] acquaint them with it. Five men at the first meeting were chosen out of all the *Athenians*, who should patronize the Law to be abolished; and according to the judgement of the *Nomothetæ*, chosen out of the Councell of five hundred, was the businesse carried, that the Lawes should be of none effect, or full strength. Whosoever would bring in a new Law, was to write in a Table, [e] αἴρεσιν γράμμα, *Demosthenes*, the forme thereof, and set it up at the Statutes of the *Heroes* before spoken of, [f] πρόσθεν τῶν ἡρωϊκῶν, which

[a] Sch. in Naz. σηλ. α. pag. 55. vid. Ulp. in Dem. p. 240.

[b] Demost. p. 445.

[c] Vid Dem. loco cit.

[d] χρηματίζειν Demosthen. Ulp. expounds ἀπαγγέλλειν to report.

[e] Cont. Timocr. p. 446.

[f] Demosth. p. 297.

which ſtanding in a place conſpicuous, that ſome certaine daies before the Seſſions, any Citizen might read what was to be handled; and if any ſo pleaſed, he might at the propoſall of the Law declare his mind either for, or againſt it, as at the preferring of *a Bill in our High Court of Parliament*, where it is not denyed any *Burges* or *Knight* of a ſhire, to ſpeake his opinion *pro* or *con*, either with any whole Bill or ſome part thereof, or in oppoſition to it, or ſome one clauſe. Provided likewiſe that hee, who attempted to enact a new Statute, ſhould take care for the diſanulling of the old, that might contradict it, otherwiſe he came within the compaſſe of παρανόμων γραφὴν, a writ of *Tranſgreſſion of the Lawes*: which was of two ſorts. Firſt, when time is not obſerved in writing them, [a] ἢ ἐν ἀνοικτῷ χρόνῳ. Next when one is made that is adverſe to a former. And if it ſo hapned, that any perſwaded the people to make a Law that was not commodious to the weale-publique, hee might bee queſtioned within [b] a yeares ſpace; [c] but if the time was expired, he could not. [d] Nay, they ſlew *Eudemus*, a *Cydiathenian*, for bringing in a Law they liked not; ſcarce different in that one example from the *Locri*; among whom, he that would propoſe a Law, ſhould doe it, his neck adorned with a halter, that if his requeſt pleaſed not, he ſtreight way powred out his ſoul under the hands of the hangman. Their Orators, which are called [e] ῥήτορες δημαγωγοὶ becauſe they lead their people with their Rhetorick and flattery, wrote Laws and decrees, as we learn out of [f] *Demoſthenes*; and therefore are they deciphered by [g] *Athenæus*, οἱ λέγοντες καὶ τὰ ψηφίσματα γράφοντες.

a Ulp in Dem. p. 297.
b Dem Orat. Arg. con. Leptinem.
c Dem p. 419.
d Idem p. 468.
e Gellius l. 3. c. 13. If. Callistratus Athenis Orator fuit, quos illi. ῥήτορας δημαγωγοὺς appellant.
Livie Dec. 4. of Athens, ubi Oratio plurimum pollet, favore multitudinis alitur, Ulpian. δημαγωγὸς ὁ λίαν ἄρχων.
f Pag. 468. n. 225.
g Dipnoſ. l. 2.

CAP. II.

De Comitiis. Κυρία καὶ Σύγκλητος Ἐκκλησία, *&c.*

THE Aſſemblies were called by the *Prytaneis* foure times in five and thirty dayes. [f] In the firſt they confirmed

f Pollux l. 8. c. 9. Sect. 7. pag. 398.

med the Magistrates in their offices, if all things were managed well by them, otherwise they put them out. They heard publick causes, looked into confiscate goods, and possessions left by inheritance. In the second, any one with leave might freely speake of private and publique affaires. In the third, they gave audience to Ambassadors, who before ought to deliver their letters to the *Prytanes*. In the fourth, they treated of holy things, such as belonged to their Gods and worship of them. The first meeting was the eleventh day of the *Prytanea*; the second, the twentieth: the third, the thirtieth: the fourth, the three and thirtieth. I finde a difference between the [a] Scholiast of *Aristophanes* and *Ulpian* in the daies on which they came together, one making the first day of the Moneth to be the day on which the first assembly was, the other the eleventh of the *Prytanea*, which seems truest. And whereas they both write that every month there were three lawfull assemblies, to wit, on the first, tenth, thirtieth; or tenth, twentieth, thirtieth, we are not so to reckon them, but according to the *Prytanea*, it being the *Prytanes* charge to congregate the people. They seem to have been called Κυρίαι Ἐκκλησίαι, because in them they did κυρίᾳ ψηφίσματα, establish decrees, as the [c] Scholiast of *Aristophanes*. Other assemblies there were which are termed [d] σύγκλητοι, when war, or any sudden accident troubled the State, then the people were called together over and above those four times in a *Prytanea*. They are styled σύγκλητοι, because the people of their owne accord met on the other dayes; but when they would have a Convocation some went about the City and called them. There is likewise [e] κατεκκλησία, when they were summoned out of the fields to go to the Assembly. It seems to me that the Crier in the streets on their lawfull assemblies gave some token when they should hasten; and so much [f] *Aristophanes* witnesses bringing in the women speaking that it is high time to be stirring, because the Cryer— δεύτερον κεκράγηκεν had cryed the second time. And indeed need there was of some warning

[a] In Achar. p. 371.
[b] In Dem. p. 445.
[c] In Acharn.
[d] Ulp. & Sch. Arist. loc. laud.
[e] Poll. p. 405.
[f] In concionantib. p. 725.

warning and compulsion too; for so slow were they in coming to assemblies, that the *Legistæ* were fain to thong them to the meetings, as the Schol. of *Aristophanes* on these words [a] Τὸν δ' ἱμάντα τὸν λιπαρῶν. Sometimes they tooke a rope, and dying it with red earth, they sent two slaves into the market place, who should one of the one side of the way, & the other of the opposite, pursue the people, & to whose change it fell to be marked with the paint, paid a certain peece of money. Hence in the [b] Comœdian--Κἄτω κἄνω Τὸ σοβινοφόβυκτι τὸ μεμιλτωμένον. Up and down they shun the cord stained with Vermilion. And again-ὦ μίλτε· ὦ Ζεῦ φίλτατε γέλων παμέγιστ' ἐμοὶ περσέφασσον κἀκλφ· *Jupiter*, the red earth which slew about made laughter. [c] Sometimes would they take Hurdles, and barracado all the streets except those that led to the *Ecclesia*: Sometimes take away all their saleable wares which they brought into the market, lest peoples intent on their traffique should absent themselves from the Assemblies. Whē they had met oft-times the company would be dismissed at some prodigious sign, as thunder, lightning, tempest, and the like, which they called [d] Διοσημεία, [e] and earthquakes, or other occasions, deferring the Assemblies meeting untill the next day. When they were come together, and the Senate ready to sit, one man sacrificed; which rites were called [f] Γισιτηεια, because they were done at the entry of the Counsell. [g] *Ulpian* προηγεῖτο γὰρ ἱστίους ὁ βουλῆς ὁ τὰς θυσίας ποιούμενος. I will not justly say that it was the purification made with a young pig before the bench was sate; and yet I may presume to averre it; the Grammarian that interprets [h] *Aristophanes* witnessing that immediatly preceding the Sessions this custome was observed by one, who they named φειδιάρχος, from φείδια, τὰ καθάρσια, which signifies cleansing, because by that he purged the Assembly, Theater, and congresse of the people. After they were sate, [i] the Cryer did pray for the good of the people, [k] & cursed those who should offer to deceive the Senate or people. After this, he spake with a loud voice

[a] In Achar. p. 406.

[b] Aristoph. Achar. p. 371.

[c] Schol. Arist. loco laudato.

[d] Vide Arist. p. 379.

[e] Plut. p. 386. l. 7. & 384. l. 34

[f] Demosth. Φιλιππ. p. 241.

[g] Vide & Ulpian. p. 351.

[h] In Conscion. p. 728. A.

[i] Demosth. Φιλιππ. p. 213.

[k] Id. p. 418.

[a] Alcidamas Aristoph. p. 372. Diod. Sic. l. 15.

voice,[a] Τίς ἀγορεύειν ἐθέλει; Who will make a speech; whereupon one of the [b] Elders arose that gave his verdict, it being not permitted to any to utter his opinion before the reverend hoary head had spent his judgement. Whence by [c] *Demosthenes* they are stiled οἱ εἰωθότες, those that were wont to orate. After they had finished their sayings, others had leave to declare themselves. Neither must we omit the fashion they had to exclude all private men from their assemblies sometimes, when the Senate alone sate, or the *Areopagiticall* Councell; sometimes to debarre all servants, strangers, and men deprived of their liberties from their convents, which at other times they admitted, and then was it called [d] ἀπᾶσι πρόδηλον θέατρον καὶ τὸ θέατρον, an open Theater to all commers. The place of meeting was called Πνύξ, *Pnyx*, ἀπὸ τῆς πεπυκνῶσθαι αὐθρόους ἐν αὐτῇ, from the frequent concourse of people there. It stood on a rock, and therefore by *Aristophanes* is called πέτρα. 345. Seh. ὄρους δὲ λίθου. There was a stipend for them that came to Assemblies, as you may see in *Demosth. contra Timoc.* And ἵνα μὴ βοιωτὸν ἐκεῖ ὀκνῶσιν. Because they might bee at leasure without damage. *Aristot. Pol. l.* 1. *c.* 13. They assembled also in *Piræeus. Ulp. in Dem.*

[b] Demosth. p. 29. Æschines contra Ctes. initio.

[c] Philippic. 1.

[d] Plut. p. 552. L. 11. 17.

CAP. III. SECT. I.

De Tribunalibus Atticis, & primum de Senatu Πεντακοσίων.

WHen the mutinie between the faction of *Megacles* and *Cylo* disturbed the *Attick* commonwealth, *Solon* perswaded the people that those, whom for their audacitie in drawing away the suppliants from the Altars they named ἐναγεῖς, should undergoe judgement, there were chosen [e] three hundred men, ἐκ τιμήματος, according to their worth, to sit upon the case. But these were not a perpetual judicatorie. For when the people murmured at the cutting off of the usury

[e] Plut. Solone, p. 60. l. 31.

uſurie money, then was the Grand Councell ordained; out of every Tribe, which were then but foure, an hundred choſen, who by their advice ſhould direct the people in thoſe things which were to be handled, leſt any thing ſhould be inacted, or propoſed to the Aſſembly, without due conſideration. Who from their office in a *Democracie*, [a] *Ariſtotle* ſaies are more properly called πρόβουλοι, but where the Rout rules, Βουλή. But when *Cliſthenes*, who by *Plutarch* is termed ὁ καταστάσας τὴν πολιτείαν, had augmented the number of the Tribes from foure to tenne, eighty ſix yeares after *Solon's* Lawes were received, he made the number five hundred, taking fifty of every Tribe, which doubled ten times make up the ſumme. This Councell by *Ariſtotle* is deſcribed ἡ μάλιστα κυρία πάντων. *The Miſtreſſe of all the reſt*, and I am not of opinion that ἡ ἄνω Βουλὴ in [b] *Plutarch*, is to be underſtood of the *Areopagus*, as if that were about the Senate, but as inſtituted firſt by *Solon*, and ſo related by the Author. And yet I know [c] one writes, *Tam dignitate, fama, quàm officio, ſecundum poſt Areopagitas locum obtinuere.* To this Councell none was choſen under thirty yeares of age, which time is ſtiled Βουλὴ ἡλικία by [d] *Libanius*. And doubtleſſe [e] *Plutarch* juſtifies it, ſpeaking that *Demoſthenes* wrote his Orations againſt *Androtio*, *Timocrates*, *Ariſtocrates*, ὅτε τὴν πολιτικὴν ἐφήψατο λυσιτελῶς when he had not attained to the managing of ſtate buſineſſe, becauſe he wanted two or three of thirty yeares. Agreeing to this is [f] *Joannes*, who ſaies that *Solon* admitted none very young, though very wiſe to Magiſtracie or Councell. Nay the [g] Scholiaſt of *Ariſtophanes* tells us, that green heads were not permitted to ſpeak publickly. The Law prohibiting any to attempt it under forty, or as ſome ſome ſay (which is truеſt) thirty, on theſe words:

Κρῖναι παρὰ τὸν νόμον ἢ εἶπεν ἢ ἔγραψεν, ἐὰν μὴ ἐξῇ αὐτῷ πρεσβύτῃ εἶναι.

Which to be otherwiſe underſtood by ſome, is not hidden from me. They were called likewiſe Ἡλιασταί, as well as Δικασταί, and their Tribunall Ἡλιαία, from the word [h] ἁλίζεσθαι, from which

[a] Polit. l. 6. c. 8.

[b] In Solone p. 63.

[c] Poſſardus.

[d] falſe, for Pauſanias calls it μέγιστον. in Att. p. 27. l. 15.

[e] In Arg. orat. con. Androt.

[f] Vita decem. Rhet. p. 378.

[g] Stobæus ſerm. 112. In Nub. p. 157.

[h] Ulp. in Demoſ. p. 445.

which signifies to throng together, because the people were frequent there. But the more probable reason is, ἐκ τοῦ συμπροσ ἔχ τοῦ ἥλιον ὁμοῦ πρὸς πρὸς ἕλεσθαι, because the place was open and exposed to the Sunne. And in respect of this [b] *Aristophanes* makes that cold conceit branded by *Didymus*, Εἰλικρινῶς ὄρθρου, ἡλιάσεις πρὸς ἥλιον, *In the morning thou shalt* ἡλιάζειν *in the sun shine.* At their admission they had this oath given them. [c] ψηφιῶ κατὰ τοὺς νόμους, &c. *I will give sentence according to the Lawes, and decrees of the people of Athens, and Councell of five hundred: I will not consent to bee a Tyrant, or bring in an Oligarchie: Neither shall my approbation be to any that will dissolve the Democracie of Athens by speech or decree. I will not cut off private use, or suffer a division of the Athenian lands or houses. I will not bring backe exilde men, or those that are condemned. I will not thrust out of the citie any innocent against the Lawe and Statutes of the Athenians and Senate of five hundred: neither by my selfe or suffer any other. I will not create a Magistrate, who hath not given an account of his former office, whether of the nine Archons, or agents for the holy things, or they, who at the same day are chosen with the nine Archons by lot, Ambassadors and assistants. Neither shall the same man beare the same office twice, or two in one yeare. I will not take gifts for judgement, neither my selfe or other for me, or others with my privacy, by fraud or deceit. I am not younger then thirty. I will heare both parties, the accuser and defendant alike. I will passe judgement aright on the thing prosecuted. I sweare by* Jupiter, Neptune, Ceres. * There is also another oath which they took; some clauses whereof, we have left in record. *To ratifie the Lawes of Solon. Plutarch in Solone, pag. 82. To give counsell for the best of the people. To advise according to the Lawes. I will not binde any Athenian who shall give three sureties of the same revennes, unlesse for treason, or bee conspire the subversion of the state popular, or buy customs, or be engaged, or gather publique money and not pay it. I will sit in that order which lot shall direct me to. I will not permit any unlesse banished*

a Ulp. loc. laudato. vide & Aristoph. Sc. p. 436.

b Pag 486.

c Dem. Orat. cont. Tim.

* If I transgresse any of these, let mee and my house perish, but if I faithfully keep them according to my oath, let us bee happy and prosperous. Dam. p. 470.

nished, to be accused or imprisoned for what is past. This last was made after the driving out of the 30 Tyrants, when [a] *Thrasybulus* gave them to oath μὴ μνησικακήσειν, not to remember ancient wrongs, which they call ἀμνηστίαν. The authority of this Councel was great, for it handled causes of war, tributes, making of Lawes, civill businesses and events, affairs of confederates, collections of money, performance of sacred rites, accounts of offices discharged, appointing keepers for prisoners, and βουλασία of Orphans, as *Xenophon.* Resembling our Court of Parliament in *England*, by whose consent all Laws are abrogated, new made, right & possessions of private men changed, formes of Religion established, Subsidies, Tailes, Taxes, and impositions appointed, weights and measures altered, &c. As not unlike also the *Venetian Gran Consiglio*, or Senate, of which the *Contarene.* [d] *Tutta la cura del governo della Republica appertiene al Senato, &c.* The whole maner of the Commonwealths government belongeth to the Senate. That which the Senate determineth is held for ratified and inviolable. By their authority and rule is peace confirmed & war denounced. The whole rents and receipts of the Commonwealth at their appointment collected and gathered in, and likewise laid out againe and defrayed, &c. In a word, I may say of these five hundred, as [e] *Budæus* of the Parliament of *France: Amplissimam eam curiam causarumq; omne genus disceptatricem justam ac legitimam esse*, that that Court is most ample, and justly and equally decided all sorts of controversies whatsoever. [f] To their charge was committed the making of new ships, for which at the yeares end they were to be rewarded by the people. To this alludes [g] *Aristophanes.* Ποδαπὸν τὸ χρῆμ', Εὐ οἶδ' ἐν αἱ πείσεις κἀμέ. Επ. Μὰ Ηλιαστάς. [h] Without their consent could the people doe nought, as indeed they made not any thing *sanctum* against the peoples wills. Hence in [i] *Demosthenes*, [k] Βέλτιον πεποίηται τὰ δήμου πράγματα In testimony of their preheminence are they termed [k] Κύριοι λόγου. and [l] οἱ ἐπὶ κρίσει. The Lords of sentence. In

a Vide Xenoph. in Ἑλλην. Cic. in it. Phil. 1. Velleium Paterculum. l. 2. p 84. Arist. Sch. in Æsch. Æschin. cont. Ctesiph.

b Athen. Rep. pag. 407.

c See Sir *Th. Smith* in the Commonwealth of England.

d As Franchirio Andrimi hath translated it. lib. 3. fol. 34. B.

e In Pandect. Prio. p. 298.

f Dem. p. 385.

g Avib. p. 546.

h Sch. Arist. p. 93.

i Pag. 234.

k Demosth. περὶ Ἀλο. Idem κατὰ τὰ Μειδίου.

time of warre they would ſend Commiſſions to their Captaines, as they thought requiſite. [a] Such as in the battaile between the *Lacedemonians* and their country-men in *Tanagra*, where fearing leſt *Cimon* baniſhed by *Oſtraciſme* ſhould betray them to the *Laconians*, they ſent to the Commanders not to entertaine him in the Armie. This honour was not during terme of life, but every yeare changed. *Apoſtolius.* ἡ μὲν τῶν πεντακοσίων καὶ ἕκαστον ἐνιαυτὸν κληρωθῆν βουλήν. Which *Anonymus in Arg. Orat. contra Androt.* expreſſes by καθ' ἐνιαυτὸν διεδέχετο. The manner of chooſing them is this. [b] The chiefe of every Tribe, on an appointed day before the beginning of the month *Hecatombæon*, brought the names of all their Tribe that were capable of this dignity, and caſt them written into a veſſell, and into another they put an hundred white beans and all the reſt black; then drawing out a name, and then a beane, to whoſe chance the white beane fell to be extracted with his name, was deſigned Senator. This they did when they had but foure Tribes, and ſo foure hundred Senatours. But when they had ten Tribes, there could be but fifty white beans, to the making up of the tenth part of five hundred. This differs not from the election obſerved by the [c] *Venetians* upon the fourth day of December, when the names of all the young men that have not by lot obtained the right of citizens, nor paſſed twenty five yeares old, are put into a pot, and carried unto the Prince, & there the ſame ſet before the Councellors, with which there is another pot, wherein are round bals equall with the number of the names written in the firſt, every one having his marks, the fift part of theſe bals is guilded with gold, the reſt with ſilver. The Prince taketh out of the firſt pot the ball, which if it be of the golden ſort, the young man whoſe name is drawn, is preſently admitted to publique authority, they to whom the ſilver chance, loſe it for that time, expecting it the enſuing year, unleſſe in the mean ſpace they accompliſh twenty five, at which age all the young Noble men partake of.

a Plut. in Cimon. p. 356. l. 50.

b Verbo Emmius in Deſcript. Reip. Athen.

c Contaren. l. 1. fol. 11 b.

of the Cities liberties. So every year the fifth part of the yonkers is choſen to give voice with the other Citizens. The uſe in chooſing I deem the ſame, & ſhall untill I find authentick writers contradict it. But the number, as augmented by *Cliſthenes* according to their tribes, ſo by his ſucceſſors. For when they added two, the number was increaſed 100, by reaſon of the Tribes *Antigonis* and *Demetrias*, after named *Attalis* and *Ptolemais* in honour to the Kings of that name which were benefactors to the State; [a] ἦσαν δὲ καὶ τῶν βουλῶν πεντακόσιαι ἕκαστοι, ἑξακοσίων ἐπίνειμαν. [b] Out of theſe were their Judges choſen, but ſuch as were about threeſcore yeares old. For although juniors were admitted into this company, yet none judged under that age. εἰσήρχοντο μὲν εἰς τὴν ἐκκλησίαν, οὐκ ἐδίκαζον δέ. To theſe was any buſineſſe referred, of which the Senate and people were in ſuſpenſe what to determine. [c] *Ariſtoph.* Εἰσὶ δ' ἡ βουλὴ καὶ ὁ δῆμος ὅταν κεῖται μέγα πρᾶγμα, προσῆκεν ἐφιστᾶσιν τοὺς ἀδικοῦντας τοῖσι δικασταῖς ἐνεχθῆναι. When the Councell and people are in doubt how to judge a great matter, They decree to deliver over the guilty to the Judges. And no marvell. For the office of a Judge is κύριον κρίνειν, prerogative in ſentence, ſaies [d] *Ariſtotle*, that is, to ſtate thoſe Queſtions which the Law hath not decided. The order of their giving ſentence before the third yeare of the ninety ſecond Olympiad I know not. Afterwards they ſate by turne in their own Tribes every one as his lot fell. For there being formerly ten Tribes in *Athens*, they choſe out of each five men, and to which one of them the chance happened, he ſate Judge. I cannot ſay that the manner of election was like that of the [e] *Syracuſans* concerning the Prieſt of *Jupiter*, who taking the names of ſo many as were nominated, and caſting them into a pot, created him, whoſe name ſhould firſt be drawn of that ſacred function. But of our owne muſt I ſpeake. [f] When then they were appointed, they met, every of them bringing with him a Table and a wand on which was written a letter that did betoken ſome Judicatory, (for there being ten Tribunals

[a] Stephanus περὶ πολ.
[b] Ariſt. Schol. p. 37.
[c] In Viſp. p. 475.
[d] Pol. l. 3. c. 13. περὶ ὧν ἐνόμος ἀφωρίσται διορίζειν.
[e] Cic. in Verrem. Act. 3.
[f] Ariſtophan, πλ. p. 30.

every one of them was noted with a red letter, Α, Β, Γ, Δ, Ε &c. to K. over the dore; time calling them to sit, they drew lots, and he to whom A. was taken out, sate in the Court noted with A. and B with B, and so to K. This done, they shewed their lot to the *Prytanes* of the Judicatorie, who gave them their Wand & Table. This they did, lest any should rashly attempt to sit, and pervert Justice. I know not whether I may better call that rod of authority a wand or staff: because that Βακτηρία καὶ ῥάβδος καὶ πεπαίνιον ἢ πειβόλιον, was as a proverb used in derision of the Judges. This staffe at the daies end they brought to the *Prytanes*, who gave them their wages; But the Scholiast teaches us otherwaies, saying that the *Demagogi* paid them, it being manifest out of *Cleon's* words the Orator, Ω γέροντες Ηλιασταί, φράτορες πεινῶντες, Οὓς ἐγὼ βόσω-- *Judges which I feed.* Their pay was not alwaies the same, ἀλλ' ἴσως, saies the Interpreter of *Aristophanes*. First they had *obolum*, which *Calistratus*, surnamed *Parnytes* was author of. Hence the proverb Ὀβολὸν δὲ μὴ Παρνύτης. Afterwards it was augmented by *Callicrates*, and from him grew the word ἀπὸ τοῦ Καλλικράτους, it may be for a pretty summe of money. Nay it changed, for now I read of Ὀβολὸς Ηλιαστικὸς one, and anon τριώβολον three, a *Drachme* to two. And therefore may wee conclude that it was sometime more, sometimes lesse. Thus having spoken a little of their Judges, I proceed to their cases of Law, in which I shall adde.

a Suidas proverb.
b Sch. Aristop. πλ. 30.
c In Equites. pag. 301.
d In Nubes pag. 174.
e Appendix Vaticana.
f Zenobius.
g Sch. Aristop. pag. 487.

When any had received wrong in *Athens*, it was their custome to make their cases knowen to a Magistrate, whose office it was to report to the Judicatory. And this they did by a Table in which was written, Κατηγορῶ τόδε καὶ προσδηλῶ τῶν δεῖνα τῷ δεῖνος εἰς τὸ δικαστήριον. *I accuse H. B. and cite him to the Court by W. N.* not unlike the *Romans* proceeding, who brought the name of the delinquent to the Magistrate before the accusation; to which *Plautus* alludes. *Ibo ego ad tres viros vestrag; ibi nomina Faxo erunt*-- when this note was given up, the Magistrate asked the Plaintiffe, whether he had witnesses

b Ulp in Dem. p. 343.
i Asinaria Act. 1. p. 54

witnesses and would prosecute the matter, who answering that he intended it, had thereupon authority to summon the Defendant to his appearance, and this he did either by himselfe, or other, called therefore κλητὴρ, for κλῆσίς ἐστιν ἡ εἰς δικαστὴν παρακλησις. a, bringing into suit. κλαδὴν δὲ εἰς δικαστήριον. The word signifies a witnesse also. For when they warned any to the Tribunall, they had any that stood by to testifie that they had admonished them. b κλητῆρες δὲ οἱ καλοῦντες εἰς τὸ δικαστήριον παρόντας· σημαίνει δὲ καὶ ἡ λέξις καὶ τὸν μάρτυρα. You may use κλητὴρ for an Apparator, Sergeant, Bailiffe, or the like. Sometimes they would run streight to the Court, as it were headlong, in c *Demosthenes* his phrase, sometimes the Suiter would forthwith draw the Defendant, if he were loath to come, as you may see out of c *Aristophanes*, Κἄθ' ἕλκουσ' αὐτόν. But if the party could put in two ἐγγυητὰς sufficient baile, he was dismissed. Hence in the d Comedian, Ἀλλ' ἐγγυητὰς ἄξιον καταστήσασθαι Ἀξιόχρεως, *I will procure thee a couple of able sureties.* Sometimes they would appoint a day of appearance, that might be a weeke or more, after the *vocationem in jus*, at which time if the Defendant were not personally at the Judgement seat, he came within compasse of Βρῆνος a *Writ of Exmodicium*, refusall to come in and answer. Which was avoided by suing for a μὴ ἕτερα in tenne daies after. For when the party to defend was absent, hee was condemned *indicta causa*, so f *Budæus* expounds ἐξ ἐρήμης καταδικασθῆναι, by this therefore the case was renewed, and stood as at first, the sentence that before past, being made of no force; and for this was it termed μὴ ἕτερα, ὅτι πρότερον δικαίαν μὲν οὐκ ἐκυρώθη, ὕστερον δὲ οὐδὲν ἴσχυσε, *because in the beginning it seemed to carry some power, but at last was nothing.* The businesse then made a new, the party that was cast by an ἐρήμη, after that he had obtained a μὴ ἕτερα, was h within two Moneths to set the Law on foot, which they terme ἀναλαχεῖν δίκην, or else the sentence given before was ratified. Whosoever should offer to call any man to the Court, unlesse upon good grounds, was liable

a Sch. Arist. 190.

b Sch Arist. p. 442.

c ὅτι κεφαλὴν εἰς τὸ δικαστήριον βαδίζειν. p. 596. n. 19.

d In Vespis pag. 487.

e Arist. Concio. p. 755.

f In Priores & Post. No. ad Pand.

g Ulp. in Dem. p 343.

h Pollux. l. 8. p. 390.

liable to φεύγειν δίκην, a writ of molestation for a false cause. Having thus far proceeded, the Impleader gave in a Libell, which held contents of his action, and the summe of the defendants answer. This the *Greeks* call [a] Ἀντιγραφὴν, *Antigraphen*. Though I know also that all cases in law were termed [b] πρόγματα, κἀντιγεγραφέναι. They tooke this course because the Defendant might know what to answer. And because it was ordinary in *Athens* for knaves to accuse out of envy, which is, συκοφαντία, they made a [c] Law, that whosoever accused and had not the fifth part of the voices should be fined a thousand Draehmes. And he that could not prove his objections was also punished in the purse a certain summe; [d] which if he paid not at the constituted time, was fourfold; And if his ability reached not so far, he suffered imprisonment. At the presenting of the *Antigraphe*, testimonies were also delivered, (formes of which you shall often meet with in [e] *Demosthenes*) & a copy of an oath, which the Suiter gave, in these words [f] Ταλανδὴ κατηγορήσειν, that he would justly accuse. Ταλανδὴ ἀπολογήσασθαι, that he would according to truth make his Apologie; and this they name [g] ἀντωμοσίαν. These writings were cast into a certain coffer, forth comming as occasion should require; all which [h] *Aristophanes* in one verse comprehends, Ἀντωμοσίας καὶ πρυτανήσεις καὶ ὠρυγείας συναγείρων. They joyned or put together oaths, citations, & testimonies. I so interpret it against the Scholiasts minde, who will have, πρυτανήσεις to be exhottations given to the Plantiffe and Defendant to come to composition. But I know that [i] πρυτανεῖν is κατηγορεῖν, εἰς δικαστήριον ἕλκειν, to accuse, *in jus rapere*, [k] and πρυτανήσασθαι, διὰ μιᾶς ψήφου ἀπολέσαι. The cheft or coffer was called ἐχῖνος, and of this are the words of the Greeke Oratours to be understood [l] εἰς ἐχῖνον ἐμβάλλειν. [m] *Theophrastus* of a mad man that would entangle himselfe in any thing, ἐχῖνον ἐν τῷ πρυτανείῳ, καὶ δραμάδας γεγραμμένας ἐν ταῖς χερσίν. Having an *Echinus* in his lap, and a bundle of libells in his hands. *Pollux* makes a different exposition of his oath from that

[a] You have a forme of this in Demosth. p.628.
[b] Arist. Nub. p.154.v.Sch.
[c] Demost.p. 716.n.7.
[d] Arist. Schol. p.170.
[e] Unum contra Stephan. πρῶτ. α. p.622. aliud p.624.629.
[f] Sch. Arist. Vesp.505.
[g] In Vesp.p. 467.505.
[h] In Vesp.p. 504.
[i] Sch. Arist. 239.
[k] Idem.p.195.
[l] Demosth. 622.n.33. 629.n.80. 640.n.22. 655.n.65. 665.n.66.
[m] Charact. περὶ ἀπονοί. p.21.

that which other Grammarians doe, confounding, as is most probable, the ἀγωνία and ἀντωμοσία with ὀμοσία. For ἀγωνία is that first oath which the Plaintif gave to prosecute, the party prosecuted to answer, which on the defendants side was called ἀντωμοσία, and generally on both. Ὀμοσία was a Sacrament taken by both, the Impleader that he did [a] πρὸς ἕκαστα λόγον, follow the delinquent in law; the defendant ἀντὶ ἐκείνου ὀμνύειν, to stand stifly to it that he did not trespasse. And yet [b] *Ulpian* makes both these one. After this were they that sued one another admitted to the Judicatory, it being first demanded of the Suiter [c] whether he would *persequi*, follow the suit, and had sufficient witnesse for evidence; in causes capitall it was asked if there were need of any, who could not then be present. This interrogation was termed [d] Ἀνάκρισις. If then any thing was deficient the judgement was prorogued by an [e] ἀντωμοσία, or oath, which the Plantiffe took, that for the present he could not perform it, but certainly would. [f] Perhaps for that time pretending sickn sse, death of friends, or some urgent necessity, on which their fortunes might depend. When then all things were ready, and at hand, they proceeded towards the Tribunall, the Judges first swearing [g] that they would give sentence according to the Laws, and in those things concerning which there were no Laws, according to conscience and equity (which the Greeks call γνώμῃ δικαστικῇ) [h] and of those things only concerning which they did debate. This oath seems to have been taken at the Altar, from whence they brought their little stones (of these by and by) with which they gave sentence. [i] *Plutarch.* ψῆφον ἐπὶ βωμῷ φέροντες The oath is called ἀμφιορκία. Then went the Judges to their seats, [k] neatly spread with mats, in Greeke, ψιάδια, and ψιάθοις, and all others being warned by the *Præco*, to goe without the Bars, in this forme [l] μετὰ σπουδῆς they sate down. For we must know that the *Athenian* Judicatories were environed in, as the Romans with lettice I suppose, by them

[a] Schol. Aristoph. V sp. 505.
[b] In Demost. p. 287.
[c] Vide Ulpian in Dem. pp. 347 341.
[d] Bud. in Annot. Rel. ad Pan. p. 341.
[e] Ulpian in Demp. p. 226. the Scho. of Aristoph. makes it the same with ἐπωμοσία. ωλ p. 75.
[f] Ulpian in D most. 341.
[g] Pollux, l. 8. p 406.
[h] Dem. pag. 628.
[i] Pag. 122.
[k] Aristoph. Sch. p. 239.
[l] Demosth.

called ἀ Ἀγκλὶς *Cancellata*, by the Greeke ἀγκλὶς, though κιγκλὶς more properly signifie the doore of the δικαστηρίου, before which was a rope of fifty feet length drawn, and publique servants set, that none might enter, but who had businesse. The partition I think was but weak, and therefore by *Demosthenes* called ἀσθενὴς κιγκλὶς. Without which none was permitted to come but the Judges. And therefore when *Demosthenes* did long to heare *Callistratus* plead concerning *Oropus*, he over entreated his *Padagogue* that hee would bring him, where he might have the happinesse to be an auditor. The *Pedagogue* therefore acquainted with the publique officers that opened the doores, τοῖς διοίγουσι τὰ δικαστήρια δημοσίᾳ, procured him a place where he might heare and not be seen, ἐν ᾧ καθήμενος & ἀθέατος ἦν. When then the Judges had gone within the bars, lest any should bee wanting the *Preco* cried ἑ Εἴ τις δύναται Ηλιαστὴς, εἰσίτω, if any Iudge be without the doore of the place of Iudgement, let him enter. ε Because if any came after the case began to be pleaded, he could not have admission. Being then seated the Crier read the Inditement, ἔγκλημα, (a copy of some part of which you have in *Demosthenes*. ΕΒΛΑΨΕ ΝΙΚΟΒΟΤΛΟΣ ΕΠΙΒΟΥΛΕΥΣΑΣ ΕΜΟΙ, &c.) in which according to the custome of the ι old *Ægyptians*, were given up to the court in writing all the reasons of accusation, the wrong received and the manner of it, with an estimation of the damage; The severall heads of which the Judges wrote downe, lest the Impleader and defendant should swerve from what they had in hand. Then stood up the Suiter in a pulpit on the left hand of the tribunall, and spake an accusatory oration, made for the most part by some of the *Attick* Orators; which use brought in by * *Antiphon* the *Rhamnusian*, κ *Clemens* of *Alexandria* calls ἀπαρχὴν τοῦ γράφειν ὑπὲρ ἄλλων, *Cicero*, *scribere aliis causas, quibus in judiciis uterentur*, such as *Lysias* is reported to have done for *Socrates*: Which lest it should exceed in length, was limited to a certaine time, by a vessell,

in

a Pollux. lib. 8. p. 407.
b Pollux loco citato.
c This is περιχοίρισμα. Pollux.
d Pag. 485.
e Plutarch. in vita.
f Aristoph. pag. 494.
g Aristoph. Sch. Ibid.
h Περὶ παραπρεσβ. p. 567.
i Boemus De. Costumi del le Genti lib. 1. cap. 5.
* Arist. Rhet. l. 1. c. 33.
k Stromat. 1. pag. 226.
l In Bruto.

in the bottome of which was a ſmall hole for water to run, as ſand doth in our houre-glaſſes, thence called κλεψύδρα, into which was poured an equall meaſure of water; and leſt there ſhould be deceit, there was an officer made for that purpoſe, named [a] Εφύδωρ, ὁ φύλαξ τῶν ἴσων τοῦ κλεψύδρας filling alike for the Impleader and anſwerer. [b] When therefore the glaſſe was runne, it was not lawfull for them to ſpeak farther, nay for ſcantneſſe of time they were compelled to paſſe by many things; and for that reaſon were they chary of their water, bidding that it ſhould be ſtopped at the reciting of Lawes, or the like, which *Demoſthenes* intimates in-Συλλαβὴν τὸν ὕδωρ, as πρὸς ὀπλαμβάνει is to ſtop the noſe in [d] *Ariſtophanes*. [e] *Apuleius*. *At tu interea dum legit, aquam ſuſtine. Pancirollus*. *Ne ſi aqua interim effluxiſſet, amplius ſibi dicendi præbita foret facultas*, leſt hee might not have leave to ſpeak any more, if the water were ſpent. If any would give way to another to ſpeak while his glaſſe was running, he might; which *Demoſt.* teſtifies, ἐν τῷ ἐμῷ ὕδατι καλεῖτω. But if he would not permit it, he bad the *Præco* caſt it forth [f] ἐξέχεε τὸ ὕδωρ *Ulpian*. Τυπτέσθω ἐκέλευε. From which kind of pleading it grew into a proverbe, [g] πρὸς τὴν κλεψύδρα, *Cicero*, *ad Clepſydram*, to ſpeake by the houre or an alotted time. His ſpeech being ended, he ſate downe. [h] The defendant then ſitting all that while over againſt him, untill he had finiſhed, after addreſſed himſelfe to his anſwer, which he made from the right hand of the Iudicatorie; where he had a pulpit, and ſtation; for this reaſon ſaies [k] *Ariſtotle*, becauſe they would make both parties equall: For the Suiter having the better part, they gave the upper hand to the defendant. Or becauſe οἱ φεύγοντες or defendants, were for the moſt part in cuſtody; If therefore the guard ſtood on the right hand, the defendant ſtood there alſo. Thence then he pleaded for himſelfe, in which plea he was only to wipe out thoſe accuſations which his adverſary laid againſt him, [l] μόνον κατηγορημάτων λύσιν ποιεῖ, And in that had the plaintiffe a prerogative. For he might

a Pollux l. 8. p. 104.
b Ulpia. in Dem. p. 356.
c Demoſth. περὶ Βοιωτ. p. 586.
d In Plutu.
e Apologia.
f Demoſth. ὑπὲρ φορμ.
g Ariſtoph. p. 617.
h Tuſc Qu. l. 2. in fine.
i Ulpian in Dem. 226.
k Problem. διὰ δικαστὰς τὸν ἀριστερὸν κέρας.
l Ulpian in Demoſth. p. 252.

object what he would; nay and as [a] *Aristotle* forecast all before he commenced his suit, and feigne to himselfe what he pleased; The defendant, perhaps innocent, was at that instant to cleare himselfe, [b] either by witnesse, or probabilities, of all doubts, whatsoever the Plaintiffe could cast in. Sometimes the Plaintiffe and Defendant would desire Advocates of the Judges, Συνηγόρους, hence [c] ἐλθεῖν ἐπὶ τοὺς Συνηγόρους, to plead for a fee. In the time of their pleading, witnesses were called, who came in, and gave their testimonies, and after they had uttered what they had to say, they went to the Altar (as it seems to me, either in, or very nigh the Judicatorie) and swore. [d] *Cicero. Athenis aiunt cum quidam apud eos sanctè graviterq; vixisset, & testimonium dixisset publicè; &, ut mos Græcorum est, jurandi causa ad aras accederet, una voce omnes Judices, ne is juraret, reclamasse.* They report that in Athens when a certain man (*Xenocrates*) who had lived godly and gravely among them, had given witnesse, and as the fashion of the Greeks is, approached to the Altar to take oath, all the Judges with one voice cried that he should not. (They would not, it seems, have beliefe rather be bound with religion then truth.) Fit to this is the answer of *Pericles* to a friend of his desiring him μαρτυρῆσαι ψευδῆ, to testifie a lye, which he was to avouch with an oath, I am your friend, quoth he, to the Altar, that is, as farre as conscience, religion and honesty shall permit; hence ἄχρι βωμοῦ φίλος εἶ μέχρι ad aras, grew, I suppose to be a proverb. *Plut. Apophth. p.* 112. Whether in this ceremony they touched the Altar, I cannot justly say; in delivering their testimonies they were wont to touch the tips of the eare (for reason to me unknown;) called λοβοὶ from λοφαίνειν, *etymologicon*; (But I rather may suppose to be a Roman fashion, where the Plaintiffe was wont to pluck his witnesse by the ear, for remembrance sake, *Horace lib. 2. Sat. 9. Licet attestari? ego vero oppono auriculam.* To which *Virgil* looked, saying *Cynthius aurem vellit & admonuit. Eclog. 6.*) and at the end thereof

[a] Loco laudato.

[b] Demosth. 219.

[c] Clemens Alandr. These had certaine pettifoggers under them, that administred the Lawes and formes of action. Cicero apud Græcos infimi homines mercedulâ adducti ministros se præbent in judiciis Oratoribus iis qui apud illos συγγραφεῖς vocantur.

[d] Cornelius Vide at Atticum l. 1. c. 13.

[e] Vide Lactium in vita ejus.

thereof wish all destruction to themselves and house if they dealt falsely. Which if they did, they were subject to a writ ψευδομαρτυρίων, of false witnesse, and he that suborned them κακοτεχνιῶν. Sometimes the witnesse was not present at the doing of the wrong, but tooke it from others by hear-say, which the Greek Lawyers terme, ἀκοὴ, as [a] ἀκοὴ τελευτησάντων, when they take from those that are dead, which went for currant, and was allowable: But to bring a testimony from the Mouth of one that was alive, and within the territories of *Athens*, it would not passe. As neither theirs who were discarded the liberties of the City, ἄτιμοι, or servants, or any man in his owne cause. [b] The manner of witnesse was twofold, either by personall appearance and testifying αὐτοπροσώπως, and then he was called ἄφρων, in no case lyable to the Law, ἀνόητος; or else by writing, by which he offered himselfe to his questions or attachments in Law, against whom he witnessed, if he were not true, and this is ὠφρνεία. Both parties being heard, and the altercation ceased, the *Præco* cried, *To whom E. N. hath seemed to violate right* (so they interpret ἀδικεῖν *jus violare*) *let him cast in the black stone, or hollow, to whom he seemeth not, the whole or white.* For we must know that anciently the Greeks gave their sentences with black and white pebles, called [c] ψῆφοι (which the French semblably terme *Procellaines*, χῖροι *porcus*) [d] *Ovid.*

Mos erat antiquis, niveis atris q; Lapillis,
His damnare reos, illis absolvere culpa.

The antique fashion was with white stones to absolve, with black to condemne the accused. Pertinent to which is the saying of *Alcibiades*, when he was called out of *Sicilie* to go home and answer for his life, counting it foolish to goe thither, whence he never was like to escape; when one asked [e] διὰ τί οὐκ ἐπιδίδως τῷ πατρίδι τὸν αὐτοῦ βίον; Wilt thou not trust thy country which begat thee to be thy Iudge? Οὐκ ἐμοὶ τῇ μητρὶ; quoth hee, Δέδοικα γὰρ μὴ ἀγνοήσασα καὶ σφάλλουσα τοῦ ἀληθοῦς, τὸν ἐμὲ ἀπολέσαι ἐμοὶ δικαστὴν ἢ ἄδικος ἄδικον. No not her, that brought me

[a] Demosth. pp. 619. 634.

[b] Ulpian in Demosth 238.

[c] Aristoph. 438.

[d] Metamorph. 15. F. 1.

[e] Ælian. Var. lib. 13. c. 38. Plut. Mor. p. 140.

me forth. For I feare leſt ſhee being ignorant, and not conceiving the truth, miſtake the black for the white ſtone. The black made *triſtem ſententiam*, and was ſo named; the ſad ſentence, the white *candidam* or acquitting. They uſed likewiſe black and white beans; in reſpect of which *Pythagoras* is thought to have ſpoken a riddle, κυάμους μὴ ἐσθίειν, not to eat beans, by [a] *Nonnus* interpreted μὴ προδιδόναι τὸ δίκαιον δωροδοκίᾳ ἢ χρήμασιν. Not to undermine juſtice with bribes; or that men ſhould get by the perverting of equity. I ſee no reaſon, but that I may think he means men ought not to bee forward in getting places of Iudgement. For [b] κυαμοστώξ in *Ariſtophanes* is by the Scholiaſt expounded δικαστὴς and [c] κυαμοτρώγων is uſed for a Iudge, which properly ſignifies an eater of beans. But afterwards they had little pellets of braſſe: The bloody ones of them were pierced through, therefore termed, [d] πεπερασμέναι, the ſaving were whole, ἄτρυποι. Of theſe every one took of each other from the Altar, as I have ſaid, [e] where laying their hands upon the ψῆφος, or balls, they intimated by a tranſpoſition of them (as from the black to the white, and from the white to the black againe) that they would not for envy or by-reſpects, but indifferently and truly judge. When then they were ready to paſſe ſentence the *Praco* carried about the Κάδον or Καδίσκον, a certaine pitchet (for ſo [g] *Xenophon* calls it, ὑδρίαν) having on the mouth of it a conveyance like a Tunnell, named κημός, but the top thereof was covered cloſe, except a little hole for one pellet at a time to be put in, made for avoiding of deceit, I ſuppoſe, leſt one man might caſt in more; and therefore were they to touch the ψῆφον only with the forefinger, middle, and thumb. [h] *Ariſtoph.* Τὰς τρεῖς λαμβάνων τῷ δακτύλῳ ἀνίσᾳ. But we muſt know that the blacke and white pellets were not promiſcuouſly caſt into one pot, but two; [i] The one which freed was made of braſſe, called σείστρον, whether becauſe they firſt threw into it their voices, or becauſe it may ſignifie the better, I know not; The other that condemned, being wodden

a In Naz. Stelit. iζ.

b Pagina 290.

c Lyſiſtrata. p.870.

d Pollux.l.8. pag.407. Ulpian. in Dem.p.470.

e Ulpian in Dem.p.162.

f Ariſtoph.. 485.

g Pag.263.

h Pag.437. vide Scholiaſt.

i Ariſtoph. Veſpis.500.

wodden ὕστερον. After the Crier had gone round with both because some would keep their bals, and for favour not give their voice against a friend or great person, therefore he cried, [a] Τίς ἀβόλησεν; ἀνιστάσθω, Who hath not cast in his ball? let him rise. So he rose and threw it in. Then they took them out and numbered them; and in matter of lands, mony or the like, whose vessell (for there were as many set as the number of the litigants came to) had most; got the upper hand. At the counting of them a Magistrate stood by with a rod, and laid it over those that were told, lest they should mistake the one from the other, or wittingly doe it. For so were they wont to doe; thence named [b] ψηφοκλέπτης. Which [c] *Teucer* objects to *Menelaus* about *Ajax*, when by his deceit the armour was given to *Ulisses*; and therefore hee calls him κλέπτην ψηφοκλόπον. Sch. βόλον κριτὴν not amisse, ψηφοκλέπτην. [d] When the number was knowne, if the white or solid bals, were more, they tooke their tables which they had in their hands, and drew a short line, as a token of absolution; if the black or hollow were more, they drew a longer line, as condemning. Hence [e] ἅπασι τιμᾶν μακρὰν, may be used, for to condemne every body. The thing it selfe they termed [f] κολοκύζειν, as *Aristophanes*. By this the one party being overthrown (as none ever was without the sentence of the Iudges) his adversary wrote down what damages hee should pay, which they terme [g] ἐπιγεγράφειν. [h] *Plutarch.* δέκα τάλαντα τίμημα ἐπέστη τῇ δίκῃ ὑπογεγράφθαι. [i] For it was a use of old for those that went to Law to make agreements: I know not whether by oath, for they did swear by three Gods, Ἰλάσιον, Καθάρσιον, Ἐξακεστήριον, and put it into the *Echinus*, that they would stand to such and such conditions, before sentence, that he that was cast should undergoe somewhat; and afterwards ὑπογράφειν, that is set down what losse of limbs or life, or meanes, &c. For although they did [k] κινδυνεύειν give their estates as pledges to answer and meet at the Court; yet it may be that might be lesse or more then the fine. There was in

[a] Aristoph. Vespis.

[b] Schol. Nic. in τὴν.

[c] Sophocles Ajac. v. 68.

[d] Schol. Arist. 438.

[e] Aristoph. Vesp loco. cit.

[f] Pag. 491.

[g] Aristoph. p. 472.

[h] βίοις ῥη. P. 454.

[i] Schol. Arist. in τὴν. pag. 50.

[k] Schol. Arist. 740.

in cauſes capitall or other proceeding, like to that in the City of [a] *Venice*; where they gave two ſentences. In the firſt they determined whether they ſhould condemne or free; If in the firſt he was condemned, the manner of puniſhment was ordained in the ſecond. But if in the firſt they found no cauſe of death, they bad the accuſed to fine himſelfe, which [b] *Xenophon* intimates by τιμᾶν, and if it were too little the Iudges doubtleſſe made it more, as the *Scholiaſt* of *Ariſtophanes*, if I forget not: The cuſtome is ſet downe by [c] *Cicero*, ſpeaking of *Socrates*. *Ergo ille quoq; damnatus eſt, &c.* And he too was condemned, not only by the firſt ſuffrages, but alſo by thoſe which by the appointment of the Lawes they were to give the ſecond time. For in *Athens* the accuſed being found guilty, if the offence were not capitall, they weighed and conſidered the penalty. When the ſentence was to be given by the Iudges, they asked the defendant, what hee thought himſelfe to have deſerved to forfeit, &c. (In the *Venetian* Commonwealth this is not obſerved.) In tryall if there be more for the priſoners liberty, then againſt him, he is ſtrait acquitted, but if more then halfe be in the pot of condemnation he ſuffers. [d] *Socrates* at the firſt had two hundred eighty and one more againſt him, then on his ſide; and at the next eighty more were added to the former, ſo in all he had three hundred threeſcore and one condemnatory ſuffrages. But fewer might have done as much. For we read in [e] *Demoſthenes* of *Cimon* like to be puniſhed with death, ἂν ἓξ ἢ ἑπτὰ ψῆφοι, if three had not been wanting. And againe, [f] πρὸς ἕξ μόνοι ψῆφοι διέλιπον τοῦ μὴ θανάτῳ ζημιῶσαι. Nay one was ſufficient, [g] *Demoſthenes*. Μιᾶς μόνον δεῖν ψήφου But *Ulpian* on the place, ὅτι μιᾷ δεῖν ψήφου ἔζημιώθη, ſaies, that hee was lightly puniſhed. [h] If the voices were equall, then was the priſoner looſed; becauſe ſometimes he might be accuſed upon ſuſpition, or of thoſe things which he did not willingly commit, or perhaps was ſued out of envy, and many other reaſons given by [i] *Ariſtotle*: therefore did the Lawgiver leave

[a] Contaren. de Rep. Ven. lib. 3.

[b] Apolog. Socr. p. 265.

[c] De Orat. 1. fol. 61 b.

[d] Laertius in Socrat. p. 115.

[e] Pag. 436.

[f] Pag. 430.

[g] Pag. 338.

[h] Ariſtoph. p. 244.

[i] Probl. ſect. 18.

leave some place for pity and compassion. To which the Judges were often moved. And therefore would they plead the deserts of their ancestors; their own lives formerly well led. [b] Sometimes shewed they their wounds; and brought the venerable gray haires of their parents, but [c] mothers chiefly, to intercede in silence: Sometimes embracing their children in their armes, they held them up in the Judges view; or caused them to [d] come up into the βῆμα, or pulpit, & supplicate with teares; which wrought so much upon the Judges, that [e] *Aristophanes* in a scoffe presents one Δικάζοντα τὸν γέροντα, drowing his sentence in weeping. Then in compunction would the Judges speak to the prisoner, [f] Κατάθα, Κατάθα, wishing him to go down from the βῆμα, a token often of mercy; though now and then it proved otherwise. Nay it was a word of displeasure too, as when *Plato* would have been Advocate for *Socrates*. Ναὶ πολὺς ὦν, ὦ ἄνδρες Ἀθηναῖοι, ἦν δὲ τὸ βῆμα ἀναβαίνων, they thundred out, Καταβάτω τὸν τοῦτο κατάρατον. Neither may I forget [g] *Amynias* the brother of *Æschylus* the Tragedian, who, when the people would have stoned his brother for some impiety brought on the stage, held up his elbow and arme without a hand, lost in the fight at *Salamis*: by which spectacle the Judges calling to minde the merits of *Amynias*, dismissed the Poet. Neither may I omit what [h] *Xenophon* objects to them, that they cared not so much for justice, as regarded what might conduce most to their own profit, and be convenient: [i] And that they condemned innocents, and spared offenders that could speak well. Furthermore another fault of theirs was the prolonging of cases a whole yeare, saies [k] *Xenophon*, and [l] *Aristophanes*. Ἀλλ' ἡμῖν γοῦν τὰς ἐνιαυσιαίους εἰσαγομένας, ἀλλ' εἰσαῦθις ἀναβεβλήμεθα. Now we doe not handle suits of above threescore yeares, but we are put off untill the next day. Τὰς ἐντὸς εἴκοσιν ἢδη ἐνδικαζόμεθα. For wee come to triall within twenty yeares. This *Xenophon* imputes to the multitude of their imployments. As long as the case hung in suspense, the name of

[a] Dem. p. 492.
[b] Aristid. T. 3. p. 292.
[c] Dem. p. 493.
[d] Aristid. loco cit. παιδία ἀναβιβάζοντες.
[e] Aristoph. pp. 469. 499.
[f] Vesp. p. 499.
[g] Sch. Ar. 500.
[h] Laert Socr. p. 115.
[i] Ælian Var. hist. l. 5. c. 19.
[k] Athen. Rep. ὁ τῆς δίκης αὐτοῖς μῆκος μᾶλλον ἢ τὸ αὐτοῖς συμφέρον ἐσκόπουν. p. 404.
[l] Apol. Socr. initio.
[m] Athen. Rep. 406.
[n] Ἐκκλησιαζ. 752. 753. They are translated foolishly into latine. εἰσαῦθις is what the Proctours in the Civill law usually mean by *in proximum*, *in Proximum*.

the accused was (as among the Romans, whence *Reipondendi*) exposed in a publique table to the view of all men, which they terme ἐκτιθέναι. *Demosthenes*, ἐν ἐκθέσει τῆς ἐπιδείξεως. *Ulpian*. ἐκτεθεῖσι τοῖς πᾶσι βλέπειν. You see here the place too, viz. at the Statues of the *Eponymi*. Before a man was convicted, all that they objected to him was but λόγοι, by *Demosthenes* termed ψιλοὶ λόγοι, a bare report; but after proofe ἔλεγχος. ὅταν δὲ ἐπιγένηται, ἡ κρίσις δείκνυσι. After judgement past, ἀδικήματα. An indictment of sacriledge, theft, murder, treason, is but λόγος, the evidence and conviction makes it ἔλεγχος, the sentence, ἀδίκημα.

a Budæus in Pand. No. Relig. p. 32.
b Demost. in Mid. 347.
c Cont. Andro. 388.
d Dem p. 406.

CAP. III. SECT. II.

De Areopago, & ejus appellatione. Areopagita.

ON the hill, on which the *Acropolis* was built, stood the *Areopagus*, in the old translation of the Acts of the Apostles rendred *Vicus Martius*, by our Englishmen, *Mars his Street*, Falsly. For ἄγος beares not that signification, but what *Justin Martyr* interprets, ἐπιφάνειαν, an eminent place. ἐπὶ τὸν ὑψηλὸν πολλῷ ἐφεστῶτα τῶν ἄλλων. For that Judicatory was on a high rock. Therefore named by *Æschylus*, & *Euripides*, Ἄρειος πάγος, by *Ovid*, *Scopulus Mavortis*, and *Ennius*, *Areopagitica petra*, so called, as fond Antiquitie would have it, from the judgement of the twelve Gods upon *Mars*, for killing *Halirrhothius* the sonne of *Neptune*. But *Justin Martyr*, because he was there arraigned of adultery, μοιχείας ἐνταῦθα κριθεὶς ἐάλω. But alike true it pleases mee well to consider the superstition of the Ancients, that consecrated high places to their deities, and erected the statues of their Gods upon hills. As *Varro*, *Hymettus*, *Anchesmus*,

e When *Tullus* had divided the Romã field, he made on high hills and places fortified by nature, refuges for the husbandmen and called them πάγους. Dion. Hal. 4. Not as if it signified a village, but as it was situated. For *Pagus* comes from πάγη. Because built neare a well. Perot.
f In Act. p. 136.
g Eumenid. p. 296.
h Elect. p. 836.
i Metamorp. l. 6. fab. 2.
k Vide Scalig. in conject.
l Demost. p. 413. Paus. p. 26. Suidas Met. & Pachym. in vit. Dionys. Areopag.
m Loc. citato
n Paus. Attic. p. 32.

whence

whence *Jupiter Parnethius, Hymettius, Anchesmius*. And so in *Athens*, *Neptune* had a hill therefore called *Saurus* another, *Apollo* the *Pan* another, *Pelasgicus*, *Mercury* another, &c. so *Mars* his *Areopagus*. [a] *Æschylus* gives it a nomination from the *Amazons* sacrificing to *Mars* there, when they came and fought against *Theseus*. Or if you will receive the opinion of others, it takes the name from the cases in it handled, of blood wilfully shed: so *Hesychius*, Ἀρειος πάγος. That when [b] *Juvenal* calls it *Curiam Martis*, you may interpret it, *The Court of murther*, but willingly committed. This is termed by the [c] *Tragedian, the most uncorrupt, sharp, reverend councell*, then which nothing is more constant (saies [d] *Tully*, comparing to it the Roman Senate) nothing more severe, as by [e] *Pseudo Dilys Cretensis*, it is stiled *Judicium severissimum per omnem Græciam*. Then which none judged better, more just, or honest, saies [f] *Xenophon*. & *Plutarch* writes that this Court was ordained by *Solon*, and [g] *Cicero* received the like opinion; but that seems to contradict it, which *Plutarch* presently brings, quoted in the thirteenth table, that they who had lost their liberties should be restored again, unlesse they were condemned by the *Areopagites, Ephetæ, Prytanes, Basileis*, of murther, slaughter, tyranny, when that Law was enacted. And by and by, [h] Τίνες δὲ οἱ Σόλωνος, &c. Who were condemned in *Areopagus* before *Solons* time (if he first instituted the *Areopagites*.) [i] Others are of opinion, that *Solon* added the *Areopagitæ* to the *Ephetæ* (Iudges so called, because when formerly the *Basileis* made inquisition after murder unwillingly committed, *Draco* made it [k] ἐφετὸν, that is, translated it to the *Ephetæ*, their number was but fifty one. And though they judged in five Courts onely, yet by little & little they became ridiculous.) *Possidonius* saies, he abolished their severity, and substituted the *Areopagites*. But [l] *Urbo Emmius* more probably thinks *Solon* was not the Author of this Senate, but brought it into a better forme, made it more strong and firme, and augmented the power of it. For *Draco* it seemes

[a] Eumenidib. p. 296.
[b] Satyr. 9. v. 100.
[c] Æschylus pag. 298.
[d] Ad Atticum. l. 1. ep. 18.
[e] De bello Troi. l. 6. p. 147.
[f] Anno. p. 148.
[g] In Solone. pag. 63.
[h] Offic. l. 1.
[i] Loc. laudato.
[k] Pollux. l. 8. p. 407.
[l] De Athen. Mag. p. 446.
[m] De Rep. Athen. p. 20.

lessened the authority of it, deriving it to the *Ephetæ*; *Solon* restored that authority and made it greater. [a] To this company none were admitted, but wise, wealthie, and noblemen; [b] famous for good life, and innocencie, τὸν ἐπὶ πᾶσι ἀνεπίληπτον, whom no man could justly charge of misdemeanour. Nay, men, whose behaviour was intolerable, [c] ἀνιτοῖς ἄλλοις πεζὸν μᾶλλον ἀνοικτὶ ὄντες, after they were chosen into the Colledge of the *Areopagites*, abhorring and blushing at their former dispositions, ἀποῤῥήξαντες τῇ φύσει χρῆσθαι, changed their natures, and embraced vertue. The number of them is uncertaine: [d] *Nicephorus* makes them but nine; as *Maximus* too out of [e] *Philochorus*; *Pachymerius* fifty and one. But what *Maximus* produces after, is somewhat, that they consisted of fifty and one, beside the Nobility most wise and rich, πλὴν ἐξ Εὐπατριδῶν καὶ πλούτῳ καὶ εἴᾳ φέρουσι διαφερόντων. By which words he seemes to aime at the nine *Archontes*, [f] who when they had governed one year, and given an account of their offices, and had administred all things justly, were chosen yearly into this society. For which election annuall, the number was doubtfull. For some might dye in that space, or all live, and in the next yeare be increased. *Volaterran* out of an old inscription in *Acropolis*, that they were three hundred; ΤΩ ΛΑΜΠΡΟΤΑΤΩ &c. To the most famous *Rufus Festus*, *Proconsul of Greece & Areopagite, the counsel of Areopagus consisting of three hundred*; and the people of *Athens* set up this monument *for a testimoniall of his good will and benevolence*. But that might only happen when this was erected. [g] They continued all their lifetime in their dignity, and were never put out, εἰ μή τι μεγάλα ἐπέῤῥησε, unlesse for some grand offence. [h] *Bozius* tells us (how true I wot not) that they were all Priests. *Athenienses olim, &c.* The *Athenians*, quoth he, did strive to challenge to themselves the prerogative of wisdome, and to them is it bent what the Apostle saies, *The Greeks seek after wisdome*. Nevertheless their *Areopagus*, who had the power of all things, consisted of Iudges that were Priests, and the High Priest

[a] Vide Maximum in Prolog. ad S. Dionys. opera & Niceph. lib 2. in vita Dion.
[b] Pachymer.
[c] Isoc. in Areopag. p. 133.
[d] Loco supra laudato.
[e] Athid. l. 2.
[f] Anonym. in Argu. Oratio. Andropeia.
[g] They were of those Magistrates that were chosen by Lot, as the Archon, Thesmothetæ, Basileus, Polemarchus, for which cause Pericles was not of that number because he never attained to these offices. Plut. in Peric. p. 113.
[h] Anonymus loco laudat.
[i] De statu Italiæ adversus Machiavel.

Prieſt of all that asked every of their ſentences, took the ſuffrages. Their authority was unlimited. For [a] they were overſeers of all, [b] Iudges of wilfull murthers, wounds given out of pretended malice; which would make ſome, having a deſire to drive a man out of *Athens*, go to a Chyrurgion and make an inciſion in their heads, that they might ſue him whō they hated, upon an action of battery, as [c] *Mantitheus* againſt *Bœotus*. They ſate upon incendiaries and impriſoners, if the party dyed that tooke their doſes. [d] They ſaw that the Laws ſhould be put in execution, ſuch as *Contaren* would have in *Venice* to be guardians of their Statutes. [e] In a word all great delinquencies came under their cenſures. They inquired into the behaviours of men; and we read in [f] *Xenophon* that they ſharply reproved a young man for his looſe living, Αναλαβε σωφρονειν αὐτὸν ἐξ Αρειοπαγιτῶν, &c. ſaies the *Dipnoſophiſt*. [g] *Valerius Maximus*. *Eſt & ejuſdem urbis* [h] *ſanctiſſimum conſilium Areopagus*, *&c.* There is likewiſe in that City the moſt ſacred Councell *Areopagus*, where they were wont moſt diligently to enquire, what either the *Athenians* did, by what gaine he maintained himſelf, and what his trade and actions were. That men, knowing and remembring that once they muſt give an account of their lives, might imbrace honeſty. [i] The Greek author tells us that except in great caſes of neceſſity they medled not with ſtate affaires, but it ſeemes otherwiſe. For if any one ſay, quoth [k] *Tully*, that the *Attick* Republique can be well governed, without the councell of the *Areopagites*, he may as well ſay that the world may bee governed without the providence of the Gods. When the *Medes* and *Perſians* invaded *Greece*, [l] by the advice of them was the war waged, wherein *Themiſtocles* purchaſed an everlaſting memory of a victory. [m] And when their publique Treaſurie was bare, they furniſhed each man with eight *Drachmes*, and ſtored the ſhips with Mariners. Which advice, when they had won the day, was a cauſe, ſaies [n] *Ariſtotle*, Σωτηρίας πόλεως τ πλοίων, to give ſtrength and ſinewes to the

a Plutarc. Solon. p. 63.
b Ælian. Var. l. 13. c. 15. Dem. p. 406.
c Demoſt. in Orat. περὶ Βοιωτὸν περὶ ὀνόματος.
d Dem. p. 445.
e Pachymer.
f In Sympoſ. unleſſe I am extreamly forgetfull. It is quoted likewiſe by Athenæus Dipnoſ. l. 4. p. 167.
g Lib. 2. c. 6.
h Ariſtides. T. 1. p. 332. Τ ἐν τοῖς Ελλησι δικαστηρίων ἀκριβεστατον καὶ ἀκόντατον.
i Anon. Arg. Orat. Androt.
k De natura Deorum. 2.
l Eſt enim bellum geſtū conſilio Senatus ejus. Cicero Off. 1.
m Plutarch. in Themiſtocl. pag. 84 l. 3.
n Polit. l. 5. c. 4.

Commonwealth. [a] Under their sight were all the youth of *Athens*. For this reason especially, because that when they were reckoned among men, and were come to age, they needed more care to be had of them, then when they were children; not observed by our countrymen in sending their sons young to the *Inns of Court*) youth and heat of blood, unstaidnesse in judgement, rashnesse in adventures, and proneness to vice, leading, or rather carrying headlong tender yeares to their owne destruction. To them appertained blasphemies against their Gods, violating of religion, and divulging mysteries, as when [b] *Eurycides* the *Hierophanta* in answer to the question of *Theodorus*, Τίνες εἰσὶν οἱ ἀσεβοῦντες περὶ τὰ μυστήρια, who offended against the mysteries? Οἱ πῖς ἀμυήτοις αὐτὰ ἐκφέροντες, replied, such as open them to those who are not initiated. Therefore, quoth the Philosopher, art thou impious. For which crime, had not *Demetrius Phalereus* befriended him, the *Hierophanta* was in danger, εἰς Ἄρειον πάγον κληθῆναι πάλιν, to have been brought before the Councell of *Areopagus*. By vertue of which authority S. *Paul* was here judged for teaching strange Gods (as they supposed.) [c] For although that the *Athenians* were under the *Romans*, yet their Lords made them αὐτονόμους jure, and permitted them to keep their ancient customes. The manner or proceeding in this Court was thus. After the fellony committed, the appellant brought his inditement to the *Basileus*, who giving the prisoner and his accuser audience once a month, at three severall times to debate the businesse, in the fourth month, brings in the accusation to the *Areopagites*, [d] and putting off the crown which he was wont to wear, sate down as judge with the *Areopagites* in the dark: for they judged by night, saies [e] *Lucian*, that they might not regard the speaker, but what was spoken, he being there forbidden [f] προσωποποιεῖσθαι ὑπὲρ ὀργῆς, to move to compassion, and use Proems as in other Courts, wherein they craved the Judges favour and attention, which by *Demosthenes* are termed [g] προοίμια. This *Aristotle*

[a] Isocrates Areop. p. 132.

[b] Laert. lib. 2. in Aristippo. p. 154.

[c] Symeon Metaphrast.

[d] Pollux. l. 8.

[e] Hermotim. p. 505.

[f] Poll. x pag. 405.

[g] Vide Ulp. in Demost. pag. 396.

Scythe calls ἐπιλογίζεσθαι, to speake beside the matter. Before the triall both parties sweare (which they stile διωμοσίαν.) The appealer standing upon the intrailes of a Goat, a Ram, and a Bull (usuall to the Greeks, as Tyndarus swore the Suiters of Helena, that they should revenge any thing done to her and her predestinated husband. [illegible] and Hercules to the children of Helena ἐπιτιμίων γενέσθαι) tooke oath, therefore named ὅρκος ἐπιτιμίων, in which he maintained that he dealt justly and rightly, and that he was joyned in affinity to the slaine man, d which if he were not, he could not prosecute, the Law forbidding. The reason why he stood ἐπὶ τομίων, I suppose is, because they are the instruments of generation, and in that oath, if he were not true, he wished an extirpation of his house, himself, and his posterity. In which if he were perjured, he was liable to the punishment, as among the Romans. e *Jurisjurandi contempta religio satis Deum ultorem habet.* For swearing is punished by a revenging God, but if any swore false by the life of the Prince, he fell under the *Julian* Law, *Laesa Majestatis.* After this the prisoner swore, which among us will not be allowed. Then setting each of them upon f two silver stones, one of which was named λίθος τῆς ὕβρεως, the stone of injury; the other ἀναιδείας, by *Adrian Junius* thought ἀναισχυντίας, of innocence, not impudence. Then the appealer asked the prisoner three questions, which Æschylus calls τρία ἐπιτίμια. First, whether he were guilty or not, ἠδίκηκας, to which he answered, οὐκ ἔφην, or ἐφην, yea or nay. Secondly, ἀπεκτόνασι, for what reason he did the murther. Thirdly, τίνες συνήρανον; who were the Abettours. Then arose there certaine Lawyers, ἐξηγηταὶ, who shewed whether the murther was committed δικαίως, in justice. (For in Athens there were such Councellours, to whom in matters of difficulty they had resort.) By δικαίως, you must understand those causes, in which Draco thought it lawfull to kill a man; as taking him committing uncleanesse with wife, mother, sister, daughter, or concubin, or any whom he

a Pollux loco laudato. Dem. cont. Aristocr. p. 413.
b Pausanias Lacon. p. 103.
c Idem Messeniacis. p. 126.
d Demosth. p. 608. & 416. These agreed, saies Pollux, about the punishment, according to the damage received. De Athen. Mag. p. 449.
e Lib. 2 C. de reb. cred.
f Paus. Attic. p. 27.
g Eumonid. p. 292.
h Ibidem.
i Æschylus p. 293.
k Demost. vid. p. 647.
l Demost. p. 312.

Vid.Demoſt. cont. Ariſtocr.

he accounts among his children; the party ſo offending might be ſlain in the manner by him, againſt whom he had treſpaſſed. Likewiſe, in the defence of a mans goods, if the thiefe were killed, impunity was granted. After this inquiſition, they p[illegible]o ſentence, which was given very privily, as *Juvenal* i[illegible]tes, *Ergo occulta teget, ut curia Martia Athenis*;

Vide Sylvium in Orat. pro Flacco.

without ſpeaking (as the *Tabellares ſententiæ* of the *Romans*, in which they wrot C. if they condemned. A. if abſolved. N.L. if the caſe were not manifeſt) hence Ἀριοπαγίτης σιγηλότερος, for one that is cloſe and ſilent; and Ἀρειοπαγίτης, for one that is grave, and who can hold his peace, & in whoſe countenance is [a] *triſtis ſeveritas*, ἐπὶ τοῦ σκυθρωποῦ καὶ σοβαροῦ καὶ σιωπηλοῦ.

a Terentius.

b Ἡ γὰρ τούτων χειροτονία οὐκ ἐᾶ δὶς ἐπὶ τοῖς αὐτοῖς κρίνειν, Pachymerius.

Whatſoever they concluded of, ſtood irrecoverable, [b] neither could there be any appeal to another Tribunall. And no marvell. For ſo upright was their ſentence, [c] that none, either Appellant or priſoner could ever ſay, that he was unjuſtly condemned. Nay both parties, as well thoſe that are caſt, as they that caſt, are alike contented, [d] ὑπὲρ ἀμφοτέρων γὰρ ὁμοίως τῆς κατεγνωσμένου. After doom the priſoner was to ſuffer death. In which execution alſo the *Areopagites* had a care leſt the innocent ſhould be puniſhed with the guilty. When therefore they had condemned a woman for poyſoning another, they deferred the execution, becauſe ſhee was great with childe, and ſtrait way after her delivery put the mother to death. Which cuſtome is by us alſo obſerved at our Aſſiſes.

c Demoſt. con. Ariſtocrat. p. 413.

d Ariſtides Tom. 1. p. 185.

e Ælian. Var. hiſt. l. 5. c. 13.

f Valer. Max. p. 322.

It will not be amiſſe to relate one memorable thing done in the time of *Dolabella* Proconſul of *Aſia*, who, when a dame of *Smyrna* was brought before him, for killing her husband and ſon, who had deprived her of a hopefull youth, begot of her by a former husband, referred the audience of the matter to the *Areopagites*, who commanded the woman and her accuſer to appear ſome hundred yeares after; that by ſuch a bottome of time, ſcarce able to be unwinded, they might ſhew, that neither would condemne nor acquit the woman. One thing more; [g] *Quintilian* tels us, that they condemned a boy

g Lib. quinto.

for

for putting out the eyes of Quailes. Because it was a sign of a minde likely to prove most pernitious. Their power was shaken and somewhat pluckt downe by [b] *Ephialtes*, a sore enemy of *Oligarchical* government, and more enclining to the people, who was secretly slain by [c] *Aristodicus* of *Tanagra*. They sate three daies every Moneth, τριῶν ἡμερῶν ἑκάστου μηνὸς, ἐν ταῖς ἡμέραις.

b Plutarch Vit. p. 355. & Mor. 291.
c Plut. in Pericle p. 158.

CAP. III. SECT. III.

De Judicio, ἐπὶ Παλλαδίῳ.

AFter the siege of Troy some of the Grecians came with *Diomedes*, [d] who kept the *Palladium*, to the coast of *Attica*, and arriving by night at *Phalerum*, supposing it to be an enemy country, went to make a prey. Where *Demophoon* ignorant that they were Grecians came to aid and defend his own; and slew many of the *Argivi*, which they cast out unburied, whose bodies when no beast had toucht (ἀλλ' ἀκήρατα ζώων, saies *Pollux*, the interpreter; *nullis vivis*, I better thinke it no creature, either fowle or beast) *Acamas* shewed that they were *Argivi*. having the *Palladium*, being warned then by the Oracle (who named them ἄγνωτας, that is, [e] neither knowing nor knowne) they buried them, and in that place consecrated the *Palladium*, where they made also a judicatory, for murders unwillingly committed, and called it, * Ἐπὶ Παλλαδίῳ, *juxta Palladium*, as some. Here was *Demophoon* first tried, who returning from this battell, killed with his horse, somewhat diverting, an *Athenian*; for whose kinred some think he satisfied the Law, or generally for the *Argivi*. [h] If any had stricken a man or woman, and the party chanced to dye, he was judged in this Court. In such cases the Law was very favourable; for the party offending was not punished with perpetuall exile, φυγῇ, as in wilfull felony; (kept by us in England once, called *Abjuration*,

d Dictis Cretensis de bello Troj. nol. 5. p. 13. Pio
e Libro octavo pag. 406.
f Schol. Soph. in Oed. Tyr.
* It is simply so called Palladium. Ælian Var. l. 5. c. 15. περὶ ἢ τῇ ἀκροπόλει ἐν Παλλαδίῳ.
g Pausan. Attic. pag. 27.
h Demosth. contra Neæram. pag. 727. Vide 647. Demosth. pag. 329.

(where the guilty had this life upon condition that he never returne) but he did ἐξιὼν ἐπὶ τὴν φυγὴν. For it was a custome of old, to give a certain summe of mony (the Attick Law χρήματα ἔπιμα, in wilfull, all was confiscate) to the kindred of the slaine, that they might not depart their country; but if they could not purchase an abode, they went somewhere else. [c] *Ovid. Cæde puer fallâ Patroclus Opuntia reliquit.* Their discontinuance was but for one yeare, ἄλλως γὰρ ἐνιαυτὸν ὁ φονεὺς ἐκ πλείονος τὴν πολλὰ ἐνιαυτὸν. The money disbursed on such occasions was properly called ποινὴ, *quasi* φοινὴ, from φόνος, murder, as if it were the price of bloud. And the Scholiast of *Sophocles* tells us that ποινὴ is spoken only, ἐπὶ καταδίκοις χρήμασι, of payment of mony, but abusively of any punishment. [d] If the party wounded had forgiven the offender before his death, or the allies of the man desperately hurt, none could afterwards compell him to flye; otherwise hee fled. And in that flight he betook himselfe to some acquaintance, by whom he was cleansed from the guilt with certain ceremonies of washing, which the Romans call *Februa*. So was *Patroclus*, *Peleus*, *Medea*, *Alcmeon* purified. [e] *Ovid.*

Græcia principium mundi fuit: illa vetustis
Impia lustrantes crimen fatale piastis.
Alcmæonidem Peleus, ipsum quoq; Pelea Phœci
Cæde per Actoniæ fatuis Acastus aquas.
Vellera fraxineis pars nostra Aeetiadæ Argis
Credulus immeritâ Thessalus Hæmonides.
Amphiaraïades Naupactius Eriphylæus.
Solos refert dixisse falsis Cyllenius.
Ah vivirent fassis, qui vitia crimina vitiis
Flumineâ nulli posse piare aquâ.

In this ceremony they did sacrifice sailes. [f] *Dem. Phaler.* (which custome likewise was observed by the [g] *Trœzenians* in the lustration of *Orestes* from the bloud of his mother, which I gather by the feast which they presently celebrated there

a Demosthenes, Midiana.
b Eust. in Iliad. 1. Ἐδεῖς γὰρ λαὸν ὑὸ, φονέα δίκτος πρὸς, &c.
c De Ponto lib. 1. Eleg. 4.
d Eustath. But Demosth. ἕως αὐ αἱ Νέστορος τὴν ἀγχιστεῖαν τὴν ποινὴν δῶσι.
Until he obtained remission from some of the kindred of the slain.
e Demosth.
f Fastorum 2. initio.

g Κατὰ Αἰσχιν. p. 414.
h Pausan. Corinth. p. 78. Καθαίρεσθαι φασιν Ὀρέστην ὑπὸ Ἀθηναίων, &c.

there, and yearly observed afterward. This manner was done with water, as you may read, taken out of the well *Hippocrene*, made by the foot of *Pegasus*; the sprinkling was with a little bough of Laurell, as I suppose by the words following, perswaded to it; which tell us, that when the dead were buried, there sprouted out of them a Bay tree; and after that *καθαίρεσθαι, θύειν καὶ καθαίρειν τοὺς φονέας*. This as I said was in his flight, *κατιόντι δὲ καὶ καθαίρουσι καὶ τούτῳ*. The proceeding in this Court, was first, *διωμοσία* such as before I mentioned, an oath in each party, accuser and defendant: secondly, *λόγοι*, their speeches of both sides: thirdly, *ψῆφοι δικαστῶν*, Judgement. If the prisoner were found guilty, that is, unwillingly to have murdered, then had he a time appointed him, how long he should flye, as above said, untill he had made peace and gotten pardon from the Cousins of the deceased.

CHAP. III. Sect. IV.

De Judiciis, in Δελφινίῳ Ἀπατουρίῳ, &c.

AT Athens there was a Temple erected by *Ægeus* (who lived in *Delphinium*) to the honor of *Apollo Delphinius* and *Diana Delphinia*, [b] where was the Tribunall named *ἐν Παλλαδίῳ, or ἐπὶ Παλλαδίῳ δικαστηρίῳ*. [c] In this Judicatory were heard cases of murder, when the party confessed the fact, but pleaded that it was legitimate. For the Law required no punishment of any man that should kill another taking him committing adultery with his Wife, or uncleanesse with his Mother, Sister, Daughter, Concubine, or free Children. Likewise if in preservation of his goods, or own defence he spilt blood it was not capitall. The first that was arraigned here was *Theseus*, maintaining the right he had to slay the theeves, saies *Pollux* (I know not whether hee mean *Sciron* and *Procrustes* &c.) and *Pallas* with his children, who were rebell. Before this Tribunall of *Theseus*, whosoever

a Plutarch. pag. 41. l. 19.

b Schol. Arist. pag. 338.

c Ælian. Var. l. 5. c. 15. Demosth. contra Arist. pag. 410. 411.

d Lib. 8. pag. 406.

e Pausan. Att. p. 27.

soever had slain any body was compelled to flye the country, or staying dye, were the cause never so just. Ἐν Πρυτανείῳ. Here they sate on things inanimate. As if a stone, timber, iron, or such like, fall on a man, and kill him, if the party that flung this be not knowne, sentence was past on that thing which slew him; and the πρυτάνεις τῶν φυλῶν that were the Masters of this court, were to see this thing cast out of the Territories of Athens, to which [b] Æschines alludes, Τὰ μὲν ξύλα καὶ τοὺς λίθους, καὶ τὰ σίδηρα τὰ φόνια, καὶ ἀγχόνας ἐκπεπτώκατε ἀπὸ τῶν ἱερῶν τῶν ἐφ' ὑμῖν. The first thing that here was judged was an Axe, wherewith the Priest, whom they call βουτύπον, had slain an Oxe on the altar of *Jupiter Polieus* in the time of *Erechtheus*. Ἐν φρεαττοῖ. In that part of *Pireeum* which is next the Sea, is a place which they name φρεαττύς, from *Phreattus* an *Heros*, some think; not because it stood in a pit, whence [c] *Pollux* names it ἐν φρεάτει. Here they were judged who having fled out of another country for unwillfull murther, [d] μὴ πρὸς ἑκόντων αὐτὸν ἀπελθόντων, they that drove him out not acquitting him, if in the space of his exile it happened that he wittingly slew another, he answered heer. The proceeding was in this sort. The Judges assembled in φρεαττοῖ, in a place seated on the Sea, [e] ἵνα τὸν ἐπὶ καλλίστου ἐπὶ θαλάττιον; where the guilty drawing near in a boat or bark, was to make his apology, τὸν πρῷραν ἀπόδυντα Θ. not comming to land or touching it, neither casting anchor on mooring his bark, and if he were found guilty he underwent deserved punishment: If he were not found guilty they cleared him of that fact, not discharging him of the former, [f] πλὴν ἐπὶ πατρῴᾳ φόνῳ ὑπέχει. I know not whether I may be of that opinion that others are in this, that if he were cast in this tryall, he was exposed to the cruell mercy of the wind and waves. The two last quoted words seem to contradict it. The first that ever answered here was *Teucer*, proving himself to be innocent of the death of *Ajax*; [g] whom treacherously circumvented because he defended not his father. *Theseus* drove out of

Salamis

a Pollux loco citato.
b Contra Ctesiph. p. 103.
c Lib. octav. 406.
d Demosth. contra Aristocr. 415.
e Demost. ib.
f Rodolphus Gualterus out of Pollux interprets it, Scalam terræ injicientem, putting downe a ladder; the Greek πλοῦν ἀθεῖαν.
g Demosthenes.
h Dictis cretensis de bello Trojano l. 6. p. 155.

Salamis, unto which that he might be restored he made appeal to this court: Which gives light to [a] *Aristotle* Οπου τὸς φεύγοντας φόνου, ἐπὶ καθόδῳ ἐπιφέρει ἢ Αθήνησι λέγει καὶ τὸ ἐν Ἐρεχθείῳ δικαστήριον. Judicatories concerning men flying for murther, that care for their bringing back againe, such as in *Athens*, τὸν Ἐρεχθεῖον. When the party prosecuting will not admit of reconciliation.

[a] Politicon 4. c. 17.

CAP. III. SECT. V.

De Tribunalis reliquis. Παλλάδιον. Τείμονον. Βατραχῶν. Φρεατίων. Τὸ ἐπὶ Λύκῳ. Μπήχυς δικαστήριον. Ἐν Ἀρδηττῷ. Δελφινίῳ.

BEsides these Courts of bloud and causes criminall, there were for civill matters these, *Heliæa*, of which before for the excellencie of it I treated. Παλλάδιον. Of this name there were two, Παλλάδιον μεῖζον καὶ μέσον, the greater and the middle. In this Court were handled matters, saies *Petit*, that exceeded not one drachme, to which [b] *Aristotle* might be thought to looke speaking of Iudicatories, περὶ τῶν μικρῶν συναλλαγμάτων, ὅσα δραχμαία, &c. And this was the meaning of [c] *Pausanias*, Ἐπ' ἐλαχίστοις σωθῆναι, εἰς αὐτὸ Suing here for the least occasions. The *Undecimviri* were Iudges of the Court, which made *Petit* to suppose that it was not to bee reckoned among the Ἡλιαστήρια. It stood [d] ἐν ἀφανεῖ πόλεως, in an obscure place of the city; whence ἐν Παλλαδίῳ, in [e] *Demosthenes*, is by *Vlpian* expounded, privily, by a *Metaphor* taken from the situation of this Iudicatory, or, ἀπὸ παραπλησίων τῷ, ἐν ᾧ ἀποκρύπτεται ἄνθρωπος, καὶ κρύφα τῶν φανερῶν, from goods secretly hidden. Ἐν Παλλαδίῳ, αὐτοῦ κλῆσις. Τείμονον, from the forme of it, which seems to have been triangular. Βατραχῶν, and φρεατίων, from the colours that were painted [f] ἐπὶ τῷ ἀρχείῳ εἰσόδῳ upon the post of the entry, answerable to which there was a staffe given to the Iudges, that they

[b] Polit. lib. 4. c. 17.

[c] Atticis. pag. 27. l. 13.

[d] Pausanias ibidem.

[e] Pag. 450.

[f] Aristoteles Athen. Rep. apud Arist. Sch. pag. 31.

they might know in what court to sit; For they presently went to that court which had the same colour with their staffe. Τὸ ὅμοιον Λύκῳ. From the statue of *Lycus* on *Heros*, which was there set up, having the face of a wolfe; where likewise the statue of *Juno* stood visaged in the same manner. But we must not omit that the image of *Lycus* was erected in every court; hence [a]Λύκου δικαί. *Lyci decem*, for sycophants and such as corrupt judgement, because that such persons were very frequent and busie there: And so thinke I *Pollux* is to be read [b]πάλαι ἢ σωφρονεῖν ὀι σωφρονίζοντες τὰ δικαστήρια (understand ἐφίστασαν or the like) at which they who bribed the Judicatories met. *Xenobius* helpes my conjecture, ἔνθα οἱ δωροδοκοῦντες, ἢ συκοφάνῃ χῶ δίκας μηχανώμενος συνεφίστατο. The [c] Scholiast of *Aristophanes* writes that this noble *Lycus* had a Temple neare the Judicatory, where the Judges divided their mony for pay, three oboli, to each, a day. [d]Μετίχειος δικαστήριον. This was a great Judicatory, so named from *Metichus* an artificer, which built it. Here, who had passed thirty yeares of his age, and was well and nobly descended, and owed nothing to the publique treasury, might be chosen Judge. For of such they all consisted. Ἐν Ἀρδηττῷ. Some have falsly supposed that there was a Tribunall so called; neither did [e]*Meursius* think otherwise, when he translated these words of *Pollux*, ἐν Ἀρδήττῳ δικαστηρίῳ, *apud tribunal Ardettum*. The fault crept in by the negligence of the transcriber; for the place is thus to be read, ὄμνυον ἐν Ἀρδήττῳ δικαστηρίῳ. The Judicatories were wont to take oath or beswerne in *Ardettus*. *Ardettus* is a place neare the river *Ilissus*, so named from *Ardettus* a Peer, who swore the people, being in sedition and mutinie, to love and amity. Where afterwards, as is most probable, the Judges took oath (I cannot justly say presently after their election) to give sentence according to the Lawes and concerning things to which no Lawes were enacted, in equity and justice, [g] by *Apollo Patrius*, *Ceres* and *Jupiter Rex*. And this the Etymologist affirmes, speaking of *Ardettus*, [h]Ἐν ᾧ

a Zenobius.

b Lib. octavo p. 406. The place is extreamly corrupted, as you may perceive by the false Greek.

c Vesp. p. 457.

d Pollux lib. 8.

e Athen. At. l. 2. c. 12. p. 124

f Lib. 8. pag. 406.

g Ἀπόλλω Πατρῷον, καὶ Δήμητρα, καὶ Διὰ Βασιλέα.

h Etym. mag. p. 147.

τὸν δὲ τὸν χαλκοῦν ὀμνύντα δικάζειν ἐκέλευον. The Judges in this place took their oath touching the discharge of their office. From whence among the Ancients such as would presently sweare, were called [a] *Ardetti*, proverbially; as also those who were perjurious and forsworne. [b] Καὶ Ἀρδήττεσθαι ἐπιόρκους. Thus have we viewed the Athenian Iudicatories, in number tenne. For Murther, *Areopagus*, *Palladium*, *Delphinium*, *Prytaneum*, and *Phreattys*. For other matters, *Heliæa*, *Trigonum*, *Parabystium* (not the *Medium* but *Majus*) *Metichi forum*, & *ad Lycum*, where the Δικασταὶ were wont to sit, saies *Possardus*, of whom, because *Emmius* numbers them among *Iudicia quatuor præcipua* the four chief Courts, I will now speak. But of every Tribe were chosen [c] forty four men, [d] above threescore yeares old, who judged in severall Tribes, as it fell to them by lot. And if any refused to sit according to his lot, he was deprived of the priviledges of an *Athenian* Citizen. [e] In former time there came no controversie into the Courts, which had not first past through their hands (if it exceeded tenne drachmes. Although [h] *Ulpian* tells us that they determined of petty businesses) but that seems to be, τὰ ἱερικὰ, holy matters, if *Pollux* be so to be read. For some things there were which came not under their jurisdiction. What ever the Διαιτηταὶ κληρωτοὶ judged, if the Plaintiffe and Defendant, or either of them liked not the award, they might referre it to the Senate (as appeares out of the Argument of *Demosth. Orat. contra Callippum*, & [k] *Pollux*) at which removing of the suit they were to cast their suffrages into a pot as they gave them on what side soever, for the Plaintiffe by themselves, and for the Defendant by themselves. [l] When they were appointed for the hearing of a case, they were to meet at the place for them ordained, there to expect both parties until the even, at which time if neither, or but one was present, it was in their power to fine them according to the Law. At the time they entred the suit, and wrot the accusation, with the fine which

a Casaub. Theop. Char. p. 178.
b Etym. Mag. loco laudato.
c De Mag. Athen. p. 540.
d Descrip. Reip. Ath. p. 41.
e Ulpian in Dem. p. 342.
f Pollux l. 8. p. 407.
g Pollux. ib.
h Demosthenem loco citato.
i Pag. 678.
k Lib. 8. p. 407.
l Vide Dem. Midian. &c. Ulpian in illum. p. 344.

which was required for damages; they received as a fee from the Plaintif one drachme, which they called [a] Διαιτητικὸν, as also another from the defendant, when they gave him his oath. The office was but annuall: And because they would pervert justice, (as [b] *Demosthenes* is witnesse, [*] although they were not to judge before they had (worne) give sentence according to favour, envy, or for gaine; therefore [c] at the yeares end they made an account of their function upon the last day of [d] *Thargelion*, on which it was lawfull for any to speak what he could object against them; and if any were faulty, they were ἔνυοι. Thus much of the Διαιτηταὶ Κληρωτοί. There were other Διαιτηταὶ likewise, such as our Civilians call *Arbitri compromissarii*, and we in English Arbitrators: whom two parties choose with a resolution to stand to their determination; whether in matter of debt, covenant, or other controversie soever. Such by the *Attick* law any might request, but with a necessity of abiding at their judgement. [e] For they could not appeal from them to any other court. To referre matters to their arbitrement, the Greeks terme, ἐπιτρέπειν διαιτᾶν. And it will not be superfluous here to relate the story of *Bunas* an *Athenian*, whom when the *Eleï* and *Calydonii* had chosen arbitrator in a differencie, after he had heard both parties, he prolonged the sentence untill at last he died. Whence it grew to a proverb, [f] Βύνας δικάζει, *Bunas judicat*, Bunas judgeth, of those that defer to passe sentence, and hold a case long in suspence.

[a] Pollux l. 8. c. 10. p. 408.

[b] Orat. in Bœotum prodote.

[*] Idem pag. 682. n. 41.

[c] Ulpian loco laudato. 342

[d] Petit Miscel. l. 8. p. 211.

[e] Vide legem apud Dem. p. 344

[f] Zenobius.

CAP. IV.

De Nominibus Judicialibus.

HAving thus treated of the *Attick* Courts, it followes that I speake of their Tearms of Law, Writs, and Accusations. These were of two sorts, private and publique. The publique were properly termed Κατηγορίαι, saies [g] *Emmius*. Of

[g] Descrip. Reip. Ath. p. 41

Κατη

Καπηλείων, there were divers sorts. Γραφὴ, φάσις, ἔνδειξις, ἀπογραφὴ, ἀφίσεως, ἀπροστασία, ἀποστασία. Γραφὴ, saies [a] *Ulpian*, is ἡ περὶ τινος ἀδικήματος, of any trespasse against the Law, by which the Statutes of the Commonwealth are violated; and most properly [b] quoth he, elsewhere, it signifies an accusation made according to the Law; or to come nearer, it is the same which in English we call a [c] Writ or Right, in Latine, *Actio* or *Formula*, as in [d] *Sueton*, *Injuriarum formulam intendere*, to serve a man with a Writ: φάσις is a kinde of an Information made against any for abuses in the Mines, or Custome houses, for converting Tribute mony to a mans owne use, or the like. Which offences were brought to the *Archon* in writing, with the names of the accuser and accused, and the fine which the parties convinced should undergoe, to be paid to him to whom the wrong was offered. But if the Informer had not the fift part of the suffrages, he was to lay downe the sixt part of the fine; which the Orators call ἐπωβελίαν, from ὀβολὸς, because it signifies the sixt part of a Drachme. At the end of the accusation, the informer was to subscribe the names of the witnesses that were present. In generall, all discoveries of private injuries are called φάσεις, which in Latine you may name *delationes*. For which the Romans allotted the fourth part of the forfeit, whence they are stiled *Quadruplatores*; but among the *Athenians* not so, if [g] *Pollux* say right, ᾧ τὸ ἀδίκημα ἐγίγνετο τῷ ἀνηκόῳ, οὐ καὶ ἄλλῳ τῳ αὐτὸν φαίνειν. The amercement fell to the person injured, although another accused for him. If the fine were written down a thousand Drachmes, & the accuser had not the fift part of the voices, he paid two hundred and one Drachme, if it exceeded, a thousand, foure hundred and one. Ἔνδειξις is a Writ against those that owe to the City Treasurie, and yet goe about to beare office, saies [h] *Ulpian*, which by the *Attick* Law was utterly forbidden. The [i] Scholiast of *Aristophanes*, takes it for the accusing of any that did amisse in publique affairs; and the [k] Interpreter of *Demosthenes* in another place, ὅτι τῷ ἀπραγμονεῖν,

a In Demosth. pro Corona. p. 159.
b Orat. contra Lept. p. 296.
c Sir T. Smith Com. Wealth of Eng. l. 2, c. 10.
d In Vitellio.
e Pollux l. 8. p. 387.
f Demosthen. cont. Caricl. p. 699. n. 6. cont. Everg. & Mnesib. pag. 646. n. 90. cont. Steph. ψδδ. A. p. 622. n. 9. contra Oectora. Εξουλ. β p. 528. n. 19. cont. Aphob. β p. 508. n. 97.
g Onomast. l. 8. c. 6 p. 387.
h In Demosth. p. 391.
i In Equit. p. 303.
k Pag. 469.

a Dinom. lib. 8. p. 388.

for men disfranchised. But *Pollux* teaches us that it is a declaration made to the *Archon* against one taken in the maner; which the *Greeks* terme ἐπαυτοφώρου, Schol. Nicolai. ἐπ' αὐτῇ πλοκῇ. *Pollux* expresses by ὁμολογήσαντος ἀδικεῖσθαι, when the offence is confessed. Because men so apprehended were forced to condemne themselves; no further evidence required then from their own mouths. By which acknowledgement of their guiltinesse, without greater triall, they received their doom; as among us when a prisoner arraigned, confesses his inditement to be true, no twelve men goe upon him; there resteth but the Judges sentence of the paine of death. Whence grew our proverb, Confesse and be hanged. *Pollux* ὁμολογήσαντα ἀδικεῖσθαι, ἀνείσατο, ἀλλὰ πρᾶσιν ἐποιήσατο. He that thus made this declaration, was to subscribe his name, that if he were false, he might be liable to the Writ, ψευδῶν ἐπιγραφῆς. The declaration was against men who were not present. Ἀπαγωγὴ, is a carrying of a man before the Magistrate, being taken in the fact, whom otherwise he was to accuse by declaration in his absence. By which a thousand Drachmes were endangered. In this ἀπαγωγῇ, they brought not all offenders to the same Magistrates, but according as they were made Judges of such and such offences; sometimes to the eleven, sometimes to the *Thesmothetæ*, sometimes to the *Archon*. Now if any man had found out any indebted to the publique treasury, or bound for those places or countries, where it was not permitted for him to go, or one who had committed murder, if by reason of weakenesse he durst not venture to apprehend the person, and ἀπάγειν, he would perhaps fetch the *Archon* to the house where such a party lay hid, which the *Attick* Lawyers terme ἀφηγεῖσθαι. Ἀφήγησις, is when a fellon hath committed murder, and flies for succour to any (as the Law suffered any to receive him) if the kindred of the slain or others had required the malefactor to be delivered to the, and the protector would not, it was lawfull to enter into his house, and carry away any three persons, as some translate it, or

b Ioh. Stelit. 1.

c Sir T. Smith Commonw. of Engl. l. 2. c. 26. p. 281.

d Loco laud.

e Ulp. in Dem. p. 389.

f Idem. p. 407

g Idem. p. 416.

or all save three, ἄχρι τριῶν, as others, who were to answer for the outrages done. But who so entred unjustly, was not to escape unpunished. Εἰσαγγελία, saies *Ulpian, is an accusation concerning great and publique matters, such as [b] elsewhere he speaks of, to wit, the dissolution of the *Democracie*; or if an Orator had spoken what was not for the benefit of the weale-publique, if any went to warres before they were sent, or betrayed a garrison, army, or fleet. In other accusations, if the accuser had not a fift part of the suffrages, he was fined a thousand Drachmes, and lost the priviledges of a Citizen, in this he was uncontrolable. But in after time, because men would accuse presently for none, or small offences; therefore was there a law enacted, that whosoever accused by εἰσαγγελία, and had not the fift part of voices on his side, was fined a thousand Drachmes, although he lost not the priviledges of a Citizen. This εἰσαγγελία contained no written crimes, but was only by bare word of mouth; and as the accusation was given, so was the defence made according to the Law called Εἰσαγγελτικός. The Senate was *Judg (Pollux saies that *Solon* made a thousand to sit on this, and *Phalereus* 1500. Where the interpreter erres. For οἱ πεντακόσιοι is 500. to them, as ὁ πᾶς οὗτος in *Demosthenes*, and somewhat more) and whom they found delinquent, if in small faults, they fined; but if the offence were heinous, they committed him to prison. Thus much for publique actions; private were these that follow, more properly called δίκαι.

[a] Idem cont. Arist. p 415.
*In D m. p 38
[b] Eund p. 453.

Αἰκίας δ. is an Action against a man, who when two shall scuffle, gives the first blow, which the Greeks call ἄρξαι πληγῶν ἀδίκων. [c] The matter was heard before the Judges; and though the Law ordained not any set summe of money for damages, yet it was permitted for the party smitten to write down what he thought fitting. The reason why these actions were so strictly looked into, was lest any not able to defend himselfe with his hand, should seek to revenge himselfe with stones, or other hurtfull weapon.

[c] Dem. p. 410. v. de Ulp. ibid. & Arg. Orat. cont. Everg. p.
[a] Sch. Arist. Conc. p. 745.
[e] Dem. cont. Con. p. 690.